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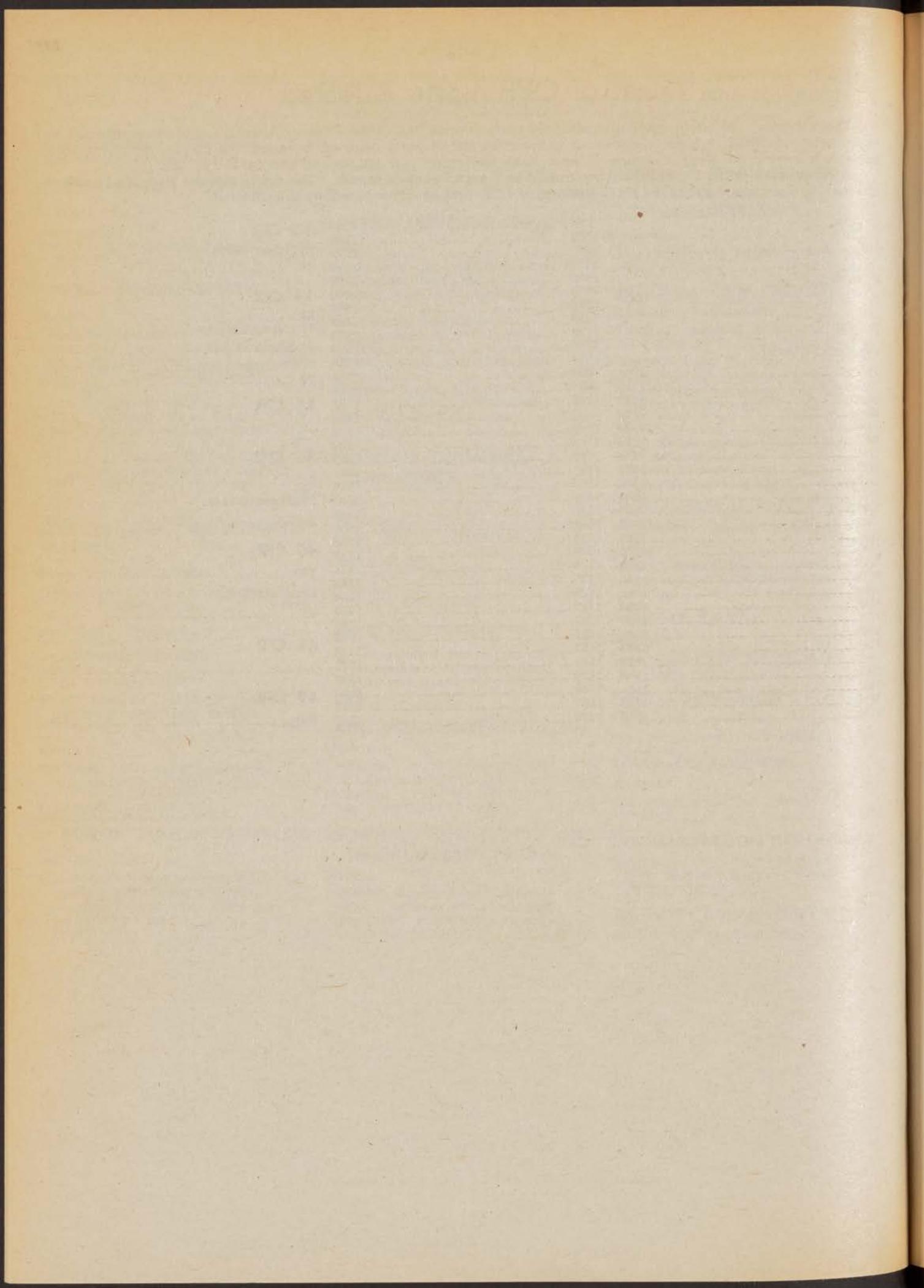
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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Extension of Open Season for Annuity

By virtue of the authority vested in the U.S. Civil Service Commission by 5 U.S.C. section 8913, the health benefits regulations are hereby amended to extend the open season for annuitants only (not for employees) from January 31 through February 29, 1972. The effective date of any open-season change in enrollment made by an annuitant through February 29, 1972, is the first day of his first pay period which begins in 1972.

These amendments to the health benefits regulations are made necessary because the recent extension of the open season to January 31, 1972, occurred too late to permit the Civil Service Commission to mail notice thereof to affected annuitants sufficiently prior to January 31 to afford them adequate opportunity to make an intelligent open-season decision. Since these amendments need to become effective no later than January 31, 1972, the Civil Service Commission has for good cause found that the urgency of publication makes notice and public procedure impracticable and contrary to the public interest.

Accordingly, effective immediately, the health benefits regulations are amended as set out below.

1. Section 890.301(d) is amended to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

(d) *Open season.* During the period November 15, 1971, through January 31, 1972, and the period November 15 through November 30 of each year thereafter beginning with 1972, an employee who is not registered to be enrolled may register to be enrolled, and an enrolled employee or annuitant may change his enrollment from one plan or option to another, or from self only to self and family, or both. An enrolled annuitant may also make such a change during the period February 1, 1972, through February 29, 1972.

2. Section 890.306(c) is amended to read as follows:

§ 890.306 Effective dates.

(c) (1) The effective date of a change in enrollment under § 890.301(d) is the first day of the first pay period which begins in January of the next following

year, except that a change in enrollment for the open season for employees ending January 31, 1972, and for annuitants ending February 29, 1972, is effective on the first day of the first pay period which begins in 1972.

(5 U.S.C. Sec. 8913)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to
the Commissioners.*

[FR Doc. 72-1326 Filed 1-27-72; 8:52 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 301—RENT STABILIZATION

Clarification

The purpose of this clarification is to make clear that rent increases for rent controlled units subject to the control of a governmental authority under paragraph (b) (1) and (2) of § 301.106, which section applies to transactions pertaining to rent controlled units after December 1, 1971, are not subject to the procedures of Subpart F of Part 301, relating to rental increase procedures applicable to rental units not included within the coverage of § 301.106.

Because the purpose of this clarification is to provide immediate guidance and information as to the rent stabilization rules which became effective December 29, 1971, it is hereby found that notice and public procedure thereon is impractical and that good cause exists for making it effective less than 30 days after publication.

(Economic Stabilization Act of 1970, amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210, 85 Stat. 743; Executive Order No. 11627, 36 F.R. 20139, Oct. 16, 1971; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, effective December 29, 1971, § 301.501 is amended by adding the following new sentence at the end thereof:

§ 301.501 General rule.

*** This subpart does not apply to rent increases for rent controlled units that are subject to the control of a governmental authority under paragraph (b) (1) and (2) of § 301.106.

Issued in Washington, D.C., on January 26, 1972.

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

[FR Doc. 72-1373 Filed 1-26-72; 3:56 pm]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-CE-2-AD; Amdt. 39-1385]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models A150, 150, 172, 177, 182, 205, 206, 207, and 210 Airplanes

Amendment 39-1050 (35 F.R. 12059, 12060), as amended by Amendment 39-1104 (35 F.R. 17030), AD 70-15-16, applicable to Cessna Models A150, 150, 172, 177, 182, 205, 206, 207, and 210 airplanes is an Airworthiness Directive which requires repetitive inspections and servicing of the electrical flap actuators on these model airplanes in accordance with Cessna Service Letter SE70-16, Supplement 1, dated July 10, 1970, and Supplement 2, dated August 28, 1970. In addition, the AD requires at each annual inspection, or at least once every 12 calendar months, that the flap actuator on these model airplanes must be removed and serviced in accordance with the procedures described in Supplement 1 of the above-mentioned service letter.

Subsequent to the issuance of AD 70-15-16, as amended, the manufacturer has developed an improved flap system for these airplanes which eliminates any possibility of sudden flap retraction and insures positive operation of the electrical wing flap actuators. Cessna Service Letter SE72-2, dated January 21, 1972, provides for the modifications in service kits which includes parts and instructions. Accordingly, AD 70-15-16 is being further amended by adding a paragraph requiring on or before January 1, 1973, the modification of applicable aircraft in accordance with this service letter. When this installation has been accomplished the requirements for inspecting, removing, cleaning and relubricating the actuator jack screw as specified in paragraphs A, B, and C of the AD will no longer be required.

Due to these changes to AD 70-15-16 and to avoid unnecessary confusion, it is being superseded and reissued in its entirety.

Since this amendment is in part relaxatory in nature and is in the interest of safety, compliance with the notice and public procedures provisions of the Administrative Procedure Act is not practical and good cause exists for making this rule effective in less than thirty (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 39-1050 as amended by Amendment 39-1104, AD

RULES AND REGULATIONS

70-15-16, is being superseded by a new AD which reads as follows:

Cessna. Applies to the following airplanes:

Models:	Serial Numbers
150----	15061533 through 15072629.
F150----	F15000001 through F15000378.
A150----	A1500001 through A1500277.
FA150----	FA15000001 through FA15000161.
172----	17251823 through 17259904.
F172----	F17200086 through F17200804.
R172----	R17200001 through R17200494.
FR172----	FR17200001 through FR17200305.
177----	17700001 through 17701633.
177RG----	177RG0001 through 177RG0212.
F177RG----	F177RG0001 through F177RG0042.
182----	18253599 through 18260698.
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205----	205-0001 through 205-0577.
206----	2060001 through 2060275.
P206----	P20600001 through P20600647.
U206----	U20600276 through U20601673.
207----	20700001 through 20700205.
210----	21058221 through 21059470.
T210----	T2100001 through T2100454.

Compliance: Required as indicated, unless already accomplished.

To prevent inadvertent retraction of wing flap and to insure positive operation of the electrical wing flap actuators, accomplish the following:

(A) On all aircraft with more than 100 hours' time in service, within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the previous 75 hours' time in service, visually inspect the actuator jackscrew for condition of lubricant and presence of contamination and scale in accordance with the procedure described in Cessna Service Letter SE70-16, Supplement 1, dated July 10, 1970, or later FAA-approved revision. If any of the conditions prescribed in the inspection criteria are noted, prior to further flight, remove, clean, and relubricate the actuator jackscrew in accordance with Cessna Service Letter SE70-16, dated June 12, 1970, or later FAA-approved revision, or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(B) On all aircraft with more than 500 hours' time in service, within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the previous 75 hours' time in service, remove, clean, and relubricate the actuator jackscrew in accordance with the procedure described in Cessna Service Letter SE70-16, dated June 12, 1970, or later FAA-approved revision, or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(C) In addition, on all aircraft at each annual inspection or at intervals not to exceed 12 months, whichever occurs first, remove clean and relubricate the actuator jackscrew in accordance with the procedure described in Cessna Service Letter SE70-16, dated June 12, 1970, or later FAA-approved revision or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(1) NOTE: Compliance with Paragraphs A, B, and C commenced on all applicable airplanes, except the Model A150, on July 28, 1970, and commenced on Model A150 airplanes on November 10, 1970.

(2) NOTE: Cessna Service Letter SE70-16, Supplement 2, dated August 28, 1970, specified some brand names of molybdenum disulfide grease.

(D) On or before January 1, 1973, modify the applicable aircraft in accordance with Cessna Service Letter SE72-2, dated January 21, 1972. Equivalent methods of compliance with this paragraph must be approved by

Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(E) Upon compliance with Paragraph D, the requirements of Paragraphs A, B, and C are no longer applicable.

NOTE: The agency recommends that the procedures for maintaining the flap system as specified in applicable Cessna service manuals be followed.

This amendment becomes effective February 1, 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 Kansas City, Mo., on January 20, 1972.

CHESTER W. WELLS,
Acting Director,
Central Region.

[FR Doc. 72-1255 Filed 1-27-72; 8:46 am]

[Airspace Docket No. 71-EA-154]

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

Alteration of Control Zone and Transition Area

On page 22846 of the FEDERAL REGISTER for December 1, 1971, the Federal Aviation Administration published a proposed rule which would alter the Bluefield, W. Va., control zone (36 F.R. 2063) and transition area (36 F.R. 2156).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., March 30, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on January 17, 1972.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

1. Amend § 71.171 of the Federal Aviation Regulations so as to delete the description of the Bluefield, W. Va., control zone and insert the following in lieu thereof:

Within a 5.5-mile radius of the center, 37°-17'45" N., 81°12'29" W., of Mercer County Airport, Bluefield, W. Va.; within a 7.5-mile radius of the center of the airport, extending clockwise from a 079° bearing from the airport to a 125° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 170° bearing from the airport to a 239° bearing from the airport; within 3 miles each side of the Bluefield VORTAC 047° radial, extending from the 5.5-mile radius zone to 9.5 miles northeast of the VORTAC and within 4.5 miles each side of the Bluefield VORTAC 224° radial, extending from the 5.5-mile radius zone to 17 miles southwest of the VORTAC.

2. Amend § 71.181 of the Federal Aviation Regulations so as to delete the de-

scription of the Bluefield, W. Va., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, 37°17'45" N., 81°12'29" W., of Mercer County Airport, Bluefield, W. Va.; within a 14.5-mile radius of the center of the airport, extending clockwise from a 078° bearing to a 113° bearing from the airport; within a 17-mile radius of the center of the airport, extending clockwise from a 113° bearing to a 195° bearing from the airport; within a 23.5-mile radius of the center of the airport, extending clockwise from a 195° bearing to a 248° bearing from the airport and within 3.5 miles each side of the Bluefield VORTAC 047° radial, extending from the 11-mile-radius area to 11 miles northeast of the VORTAC.

[FR Doc. 72-1264 Filed 1-27-72; 8:47 am]

[Airspace Docket No. 71-EA-147]

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

Alteration of Control Zone and Transition Area

On page 22846 of the FEDERAL REGISTER for December 1, 1971, the Federal Aviation Administration published a proposed rule which would alter the Clarksburg, W. Va. control zone (36 F.R. 2069, 11915) and transition area (36 F.R. 2167).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. March 30, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on January 17, 1972.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to delete the description of the Clarksburg, W. Va., control zone and insert the following in lieu thereof:

Within a 5.5-mile radius of the center of 39°17'44" N., 80°13'46" W. of Benedum Airport, and within 3 miles each side of the Clarksburg VOR 219° radial extending from the 5.5-mile-radius zone to 8.5 miles southwest of the VOR. This control zone is effective 0700 to 2300 hours, local time daily.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to delete the description of the Clarksburg, W. Va., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile-radius of the center of 39°17'44" N., 80°13'46" W. of Benedum Airport and within 5 miles each side of the Clarksburg VOR 219°

radial extending from the 8.5-mile-radius area to 11.5 miles southwest of the VOR.

[FR Doc.72-1261 Filed 1-27-72;8:47 am]

[Airspace Docket No. 71-EA-153]

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

Designation of Control Zone and Alteration of Transition Area

On page 22847 of the FEDERAL REGISTER for December 1, 1971, the Federal Aviation Administration published a proposed rule which would designate a Dublin, Va., control zone and alter the Dublin, Va., transition area (36 F.R. 2178).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. March 30, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on January 17, 1972.

ROBERT H. STANTON,
*Acting Director,
Eastern Region.*

1. Amend § 71.171 of the Federal Aviation Regulations so as to designate a Dublin, Va., control zone as follows:

DUBLIN, VA.

Within a 5-mile radius of the center 37°08'12" N., 80°40'50" W. of New River Valley Airport, Dublin, Va.; within an 11-mile radius of the center of the airport, extending clockwise from a 250° bearing to a 295° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 295° bearing to a 037° bearing from the airport; and within 3.5 miles each side of the Pulaski VORTAC 012° and 192° radials, extending from the 5-mile-radius zone to 10.5 miles south of the VORTAC. This control zone is effective from 0900 to 2000 hours, local time, daily.

2. Amend § 71.181 of the Federal Aviation Regulations so as to delete the description of the Dublin, Va., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center 37°08'12" N., 80°40'50" W., of New River Valley Airport, Dublin, Va.; within a 23-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 272° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 272° bearing to a 291° bearing from the airport; within an 18-mile radius of the center of the airport, extending clockwise from a 291° bearing to a 314° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 314° bearing to a 355° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 015° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 015°

bearing to a 060° bearing from the airport; within 5 miles each side of the Pulaski VORTAC 192° radial extending from the VORTAC to 11.5 miles south of the VORTAC and within 5 miles each side of the 233° bearing from a point 37°08'39" N., 80°40'03" W., extending from said point to a point 16 miles southwest.

[FR Doc.72-1263 Filed 1-27-72;8:47 am]

[Airspace Docket No. 71-EA-149]

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

Alteration of Control Zone and Transition Area

On page 22847 of the FEDERAL REGISTER for December 1, 1971, the Federal Aviation Administration published a proposed rule which would alter the Lynchburg, Va., control zone (36 F.R. 2100) and transition area (36 F.R. 2223).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., March 30, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on January 17, 1972.

ROBERT H. STANTON,
*Acting Director,
Eastern Region.*

1. Amend § 71.171 of the Federal Aviation Regulations, so as to delete the description of the Lynchburg, Va., control zone and substitute the following in lieu thereof:

Within a 5.5-mile radius of the center 37°19'37" N., 79°12'04" W. of Lynchburg Municipal-Preston Glenn Field, Lynchburg, Va.; within 3 miles each side of the Lynchburg, Va., VORTAC 021° and 201° radials extending from the 5.5-mile-radius zone to 1 mile south of the VORTAC; within 2 miles each side of the Lynchburg, Va., VORTAC 023° radial extending from the 5.5-mile-radius zone to 13 miles northeast of the VORTAC and within a 1.5-mile radius of the center 37°22'40" N., 79°07'21" W. of Falwell Airport, Lynchburg, Va. This control zone is effective from 0700 to 2300 hours, local time, daily.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to delete the description of the Lynchburg, Va., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 37°19'37" N., 79°12'04" W. of Lynchburg Municipal-Preston Glenn Field, Lynchburg, Va.; within 3 miles each side of the Lynchburg, Va., VORTAC 201° radial, extending from the 9-mile-radius area to 8.5 miles south of the VORTAC and within 3.5 miles each side of the Lynchburg, Va., VORTAC 023° radial extending from the 9-mile-radius area to 24.5 miles northeast of the VORTAC.

[FR Doc.72-1262 Filed 1-27-72;8:47 am]

[Airspace Docket No. 71-NE-10]

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

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Millinocket, Maine, control zone (35 F.R. 2105) and transition area (35 F.R. 2232).

The agency is attempting to eliminate duplicate names of navigational aids (NAVAIDs) to avoid possible pilot confusion. Therefore, an editorial change to the Millinocket, Maine, control zone and transition area descriptions will be required to reflect a new name assignment.

Since the foregoing amendments are editorial in nature, notice and public procedure hereon are unnecessary and the amendments may be made effective in less than 30 days.

In view of the foregoing, the Federal Aviation Administration, having completed review of the airspace requirements in the terminal airspace of Millinocket, Maine, amends Part 71 of the Federal Aviation Regulations, as follows, effective 0901 G.m.t., March 30, 1972.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Millinocket, Maine, control zone by deleting "Millinocket RBN" and substituting "Sterns RBN" therefor.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Millinocket, Maine, 700-foot transition area by deleting "Millinocket RBN" and substituting "Sterns RBN" 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 Burlington, Mass., on January 12, 1972.

W. E. CROSBY, Jr.,
*Deputy Director,
New England Region.*

[FR Doc.72-1265 Filed 1-27-72;8:47 am]

[Airspace Docket No. 72-NE-2]

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

Revocation of Control Zone

The Federal Aviation Administration is amending § 71.171 of the Federal Aviation Regulations so as to revoke the Old Town, Maine, control zone (37 F.R. 2056).

Due to the relocation on February 1, 1972, of the flight service station from Old Town, Maine, to Bangor, Maine, Old Town will not meet the weather and communications requirements necessary to support a control zone.

Since this amendment is less restrictive and does not create any 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 view of the foregoing, Part 71 of the Federal Aviation regulations is amended effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation regulations so as to revoke the Old Town, Maine, control zone.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Burlington, Mass., on January 20, 1972.

FERRIS J. HOWLAND,
Director,
New England Region.

[FR Doc.72-1258 Filed 1-27-72;8:47 am]

[Airspace Docket No. 71-GL-6]

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

Designation of Transition Area

On page 20372 of the FEDERAL REGISTER dated October 21, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation regulations so as to designate a transition area at Bad Axe, Mich.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., March 2, 1972.

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

Issued in Des Plaines, Ill., on December 23, 1971.

R. O. ZIEGLER,
Director,
Great Lakes Region.

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

BAD AXE, MICH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Huron County Airport (latitude 43°-47'00" N., longitude 82°59'00" W.); within 3 miles each side of the 023° and 215° bearings from the Huron County Airport extending from the 5-mile-radius area to 8 miles northeast and southwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4¼ miles northwest and 9½ miles southeast of the 215° bearing from the airport and 4½ miles east and 9½ miles west of the 023° bearing from the airport extending from the airport to 18½ miles southwest and north of the airport.

[FR Doc.72-1256 Filed 1-27-72;8:46 am]

[Airspace Docket No. 71-GL-9]

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

Designation of Transition Area

On page 21211 of the FEDERAL REGISTER dated November 4, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of the Federal Aviation Regulations so as to designate a transition area at Gallipolis, Ohio.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., March 30, 1972.

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

Issued in Des Plaines, Ill., on January 6, 1972.

LYLE K. BROWN,
Director,
Great Lakes Region.

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

GALLIPOLIS, OHIO

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Gallia-Meigs Regional Airport, Gallipolis, Ohio (latitude 38°50'03" N., longitude 82°09'49" W.).

[FR Doc.72-1257 Filed 1-27-72;8:47 am]

[Airspace Docket No. 71-SO-164]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to alter the Montgomery, Ala., transition area.

The Montgomery transition area is described in § 71.181 (36 F.R. 2140). An RNAV RWY 3 Instrument Approach Procedure to Dannelly Field, effective January 13, 1972, requires a very small amount of additional controlled airspace protection. It is necessary to alter the transition area description to provide this protection. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Montgomery, Ala., transition area is amended as follows: " * * * LOM * * * " is deleted and " * * * LOM; within 3.5 miles each side of Runway 3 extended centerline, extending from the 8.5-mile radius area to

10 miles SW of the runway end; * * * " 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 14, 1972.

DUANE W. FREER,
Acting Director,
Southern Region.

[FR Doc.72-1259 Filed 1-27-72;8:47 am]

[Airspace Docket No. 71-EA-67]

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

Designation of Transition Area

On page 12111 of the FEDERAL REGISTER for June 25, 1971, and page 20050 for October 15, 1971, the Federal Aviation Administration published a proposed rule which would designate a Toughkenamon, Pa., transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t. March 2, 1972, except as follows:

1. Delete the phrase "047° radial" and insert in lieu thereof "047° and 227° radials."

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act [49 U.S.C. 1655(c)])

Issued in Jamaica, N.Y., on January 6, 1972.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

1. By deleting the description of the Toughkenamon, Pa. transition area and inserting in lieu thereof the following:

TOUGHKENAMON, PA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 39°49'55" N., 75°46'08" W. of the New Garden Flying Field, Toughkenamon, including that airspace 5 miles west and 3 miles east of the Modena, Pa., VORTAC 047° and 227° radials extending from 5 miles southwest to 10 miles northeast of the VORTAC.

[FR Doc.72-1260 Filed 1-27-72;8:47 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter X—Office of Foreign Direct Investments, Department of Commerce

PART 1000—FOREIGN DIRECT INVESTMENT REGULATIONS

Miscellaneous Amendments

EDITORIAL NOTE: The Foreign Direct Investment Regulations (the "regulations")

appear in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations (CFR). Thus, all sections of the regulations contained in CFR are preceded by the designation "1000" (e.g., § 1000.312). The "1000" prefix has, for convenience, been eliminated from the section references contained in this notice. The abbreviations "DI" and "AFN" are used in this notice to refer to "direct investor" and "affiliated foreign national."

The Office of Foreign Direct Investments (OFDI) has promulgated certain amendments to the Foreign Direct Investment Regulations. These amendments relieve or extend the period for complying with restrictions that would have the effect of requiring DIs to engage in transactions during the time of uncertainty in international monetary conditions in the latter part of 1971. In view of the DIs' need for certainty and immediate opportunity to act in reliance upon the amendments before December 31, 1971, or before the optional dates of January 31, 1972 and February 29, 1972, as provided by the amendments, OFDI found that publication of these amendments in proposed form was impracticable. Notice was given to DIs by an explanation of the amendments that was mailed to all DIs on December 20, 1971, and published in the FEDERAL REGISTER on December 23, 1971 (36 F.R. 24830), wherein DIs were advised that they could rely on the explanation until publication of the amendments.

The amendments are described as follows:

1. The prohibition under section 203(d)(1) against making a positive net transfer of capital resulting in positive direct investment in any scheduled area during a year if a DI electing schedular allowables holds, at the end of such year, available proceeds of long-term foreign borrowing exceeding \$100,000 in any form of foreign property is revoked for 1971 by a postponement of its effectiveness until the year 1972.

2. Section 306(e)(1) is amended to permit a DI to deduct from positive direct investment made during 1971 an amount equal to any available proceeds of long-term foreign borrowing (or proceeds borrowed from the DI's overseas finance subsidiary) made on or before February 29, 1972, that are allocated to such positive direct investment, provided (1) the DI makes the appropriate bookkeeping entries for allocation, (2) the allocation and deduction are reported on the DI's Form FDI-102F for 1971, and (3) the proceeds, as of February 29, 1972, are not held, directly or indirectly, in any form of foreign property.

Thus, a DI may reduce positive direct investment made during 1971 by allocating available proceeds of any long-term foreign borrowing that is outstanding on February 29, 1972. Such borrowing may be made during the first 60 days of 1972 or may have been made by the DI during 1971 or a prior year. In either event, the available proceeds need not be repatriated to the United States until February 29, 1972. The 12-month maturity test for long-term foreign borrowing will, of course, apply to any borrowing of which available proceeds

are allocated, i.e., the borrowing, as refinanced, must be continuously outstanding for at least 12 months.

It should be noted by DIs that they may still allocate to positive direct investment made during 1971 any available proceeds that have been repatriated on or before December 31, 1971, notwithstanding the repayment of the underlying long-term foreign borrowing during the first 60 days of 1972. Such repayment will involve a transfer of capital during 1972.

3. Section 313 is amended to permit a DI, in calculating a net transfer of capital made during 1971, to treat as repaid during 1971 any debt obligation or other credit of an AFN that was outstanding on December 31, 1971, and is in fact repaid by the AFN to the DI during the first 60 days of 1972. The aggregate amount of repayments receiving this prior-year treatment may not exceed the worldwide negative net transfer of capital to all non-Canadian AFNs that is made by the DI during such 60-day period. If the DI makes a positive net transfer of capital to all non-Canadian AFNs during such period, prior-year treatment of repayments is not available.

Alternatively, a DI may treat as repaid during 1971 any debt obligation or other credit of an AFN that was outstanding on December 31, 1971, and is in fact repaid by the AFN to the DI on or before January 31, 1972. If the DI elects this 1-month period, the aggregate amount of repayments receiving prior-year treatment may not exceed the worldwide negative net transfer of capital to all non-Canadian AFNs that is made by the DI during January 1972. Prior-year treatment is not available under this alternative if the DI makes a positive net transfer of capital to all non-Canadian AFNs during January.

In calculating the net transfer of capital to determine whether prior-year treatment of repayments is available, the aggregate of all transfers of capital made during the relevant 1- or 2-month period by all non-Canadian incorporated AFNs to the DI is subtracted from the aggregate of all transfers of capital made during such period by the DI to its non-Canadian incorporated AFNs, and the result is added to the net transfer of capital made by the DI to all of its non-Canadian unincorporated AFNs during such period. This calculation is made on a worldwide basis by all DIs, without regard to the election of worldwide or schedular allowables for 1971. No deduction shall be made for the expenditure of available proceeds in making transfers of capital during the 1- or 2-month period in 1972; however, transfers of capital resulting from the repayment of long-term foreign borrowing during such period must be included. A DI shall exclude from this calculation any transfers of capital that are deemed to occur as the result of conditions imposed by specific authorization or compliance settlement.

If a DI makes a negative net transfer of capital, calculated as described above, repayments of qualifying debt obligations or other credits by AFNs to the DI during the 1- or 2-month period in 1972 that is elected for such purpose may be

treated as having been made from their respective scheduled areas during 1971. The aggregate amount of repayments selected by the DI to receive such prior-year treatment may not exceed the worldwide negative net transfer of capital. However, such repayments are not required to be made from a particular scheduled area in which there is a negative net transfer of capital.

The effect of prior-year treatment of repayments is to reduce direct investment made by the DI during 1971 for all purposes, including compliance and the calculation of amounts specifically authorized. It should be noted that repayments during 1972 that are treated as having occurred during 1971 will be excluded from the calculation of direct investment made during 1972, which will increase correspondingly.

The text of the amendments is as follows:

1. Section 1000.203(d)(1) is amended to read as follows:

§ 1000.203 Liquid foreign balances.

(d)(1) A direct investor which holds available proceeds, as defined in § 1000.324(d), in excess of \$100,000 in the form of foreign balances or in the form of securities (including debt obligations, equity interests and any other type of investment contract) of foreign nationals or in the form of any other foreign property as of the end of any year commencing with the year 1972 shall be prohibited from making a positive net transfer of capital to any scheduled area for such year, but only to the extent such positive net transfer of capital results in positive direct investment in such scheduled area for such year that is not authorized by § 1000.1002: *Provided*, That this subparagraph shall not apply to a direct investor which elects to be governed for such year by § 1000.503 or § 1000.507: *And provided further*, That for purposes of this subparagraph, allocations to positive direct investment under § 1000.306(e) or subparagraph (2) of this paragraph and reallocations under subparagraph (3) of this paragraph shall be deemed to reduce any positive net transfer of capital to a scheduled area and thereafter to reduce any reinvested earnings in such scheduled area.

2. Section 1000.306(e)(1) is amended to read as follows:

§ 1000.306 Positive and negative direct investment.

(e)(1) There shall be deducted from positive direct investment in a scheduled area during any year, as calculated under paragraph (a) of this section, an amount equal to any available proceeds (as defined in § 1000.324(d)) allocated by the direct investor to such positive direct investment for such year. Available proceeds shall be allocated to such positive direct investment for such year if (i) an entry is made in the books and records maintained by the direct investor under §§ 1000.203(b) and 1000.601; (ii) the allocation and deduction is reported

on the next annual report of the direct investor (Form FDI-102F) filed for the year for which the deduction is made; and (iii) the proceeds, as of the end of the year for which the deduction is made, are not held, directly or indirectly, in the form of foreign balances or in the form of securities (including debt obligations, equity interests and any other type of investment contract) of foreign nationals or in the form of any other foreign property. In addition, available proceeds of long-term foreign borrowing made on or before February 29, 1972 (including available proceeds so treated under § 1000.1403(a) (1) as the result of proceeds borrowing made on or before February 29, 1972) shall be allocated to such positive direct investment for the year 1971 if bookkeeping entries and a report on Form FDI-102F for 1971 are made with respect to such allocation, as required under this section, and such proceeds, as of February 29, 1972, are not held, directly or indirectly, in the form of foreign balances or in the form of securities of foreign nationals or in the form of any other foreign property.

3. Section 1000.313 is amended by adding paragraph (e) to read as follows:
§ 1000.313 Net transfer of capital.

(e) (1) In calculating the amount of the net transfer of capital made by a direct investor to all affiliated foreign nationals in any scheduled area during the year 1971, the direct investor may include transfers of capital by incorporated affiliated foreign nationals and decreases in net assets of unincorporated affiliated foreign nationals in such scheduled area that are recognized upon repayments of debt obligations outstanding as of December 31, 1971, by such affiliated foreign nationals to the direct investor during January 1972 or, as alternatively elected by the direct investor, during the first 60 days of 1972: *Provided*, That the direct investor has made a worldwide negative net transfer of capital during the period elected under this section: *And provided further*, That the aggregate amount of such transfers of capital and decreases in net assets included in calculating the amounts of the net transfers of capital made by the direct investor during the year 1971 does not exceed the amount of such worldwide negative net transfer of capital.

(2) The worldwide net transfer of capital by a direct investor during the period elected by the direct investor under this section means the algebraic sum of the net transfers of capital, calculated without deductions provided under § 1000.313 (d) (1), by the direct investor to all incorporated and unincorporated affiliated foreign nationals in all scheduled areas during such period.

(3) Any transfer of capital or decrease in net assets that is included in calculating the amount of a net transfer of capital made by a direct investor to all affiliated foreign nationals in any scheduled area during the year 1971 pursuant to this section shall be excluded in calculating the amount of the net transfer of

capital made by the direct investor to such affiliated foreign nationals in such scheduled area during the year 1972.

The amendments hereby adopted shall apply to all direct investment during the year 1971 and to all transactions thereby permitted to affect such direct investment.

(Sec. 5, act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47)

WILLIAM V. HOYT,
 Director, Office of
 Foreign Direct Investments.

JANUARY 24, 1972.

[FR Doc.72-1242 Filed 1-27-72; 8:45 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior PART 2—PUBLIC USE AND RECREATION

National Scenic Trails and Other Trails

On pages 19388 and 19389 of the FEDERAL REGISTER of October 5, 1971, there was published a proposal of rule making to revise § 2.30 of Title 36 of the Code of Federal Regulations, concerning travel on trails. The purpose of the proposal was to provide regulations for National Park Service administered segments of the Appalachian National Scenic Trail and segments of the Pacific Crest National Scenic Trail within areas of the National Park System and to revise regulations for other trails. Interested persons were given 60 days to submit written comments on the proposal.

After careful review of comments submitted, the following changes have been made. Paragraph (a) (1) of § 2.30, as it appears in the proposal, would preclude vehicle use on all future national scenic trails. There are now in existence only two such trails—the Appalachian National Scenic Trail and the Pacific Crest Trail. It was brought to our attention that as other trails are studied and subsequently recommended for designation as national scenic trails, bicycle use may be found appropriate on some National Park Service administered segments of them. Accordingly, we have made changes in this paragraph to limit the named vehicular prohibitions to service-administered segments of the national scenic trails already designated.

In addition, it has been concluded that the proposed revision of regulations concerning travel on trails other than the national scenic trails, the general effect of which would be increased lenience concerning motor vehicles and increased restriction on bicycles, is unnecessary and inappropriate.

Therefore existing regulations concerning travel on trails are renumbered and retained for trails other than the national scenic trails covered by paragraph (a) of the proposed revision.

It has also been decided that the proposed change in name of § 2.30 from Travel on Trails to Travel on National Scenic and Other Trails is unnecessary. Therefore the present name, Travel on Trails, is retained.

The proposed revision is hereby amended in accordance with the above-mentioned changes and is adopted as set forth below. The revision will take effect 30 days after publication of this notice in the FEDERAL REGISTER.

§ 2.30 Travel on trails.

(a) *Appalachian and Pacific Crest National Scenic Trails.* (1) The use of bicycles, motorcycles, snowmobiles, or other motor vehicles by the general public is prohibited on these two national scenic trails.

(2) Horseback riding and the use of pack animals are permitted on national scenic trails subject to § 2.23. *Provided*, That such uses are permitted on the Appalachian National Scenic Trail only when the trail or trail section is posted as open for these purposes. Where such uses are permitted, pedestrians shall remain quiet when saddle or pack animals are passing. Horses shall not be tied, hobbled, or corralled within 50 feet of the trail, or any trail structure or facility.

(b) *Travel on other trails.* The following regulations apply to all trails in areas of the National Park System except those trails covered by paragraph (a) of this section:

(1) In natural and historical areas, the use of bicycles, motorcycles, and other motor vehicles is prohibited on trails, except that bicycles may be used on those trails designated for their use by posted signs.

(2) In recreational areas, the use of motorcycles and other motor vehicles on trails is prohibited except on trails designated by the Superintendent and posted for such use. The use of bicycles is permitted unless restricted by posted signs.

(3) Pedestrians on trails shall remain quiet when saddle or pack animals are passing.

RAYMOND L. FREEMAN,
 Acting Director,
 National Park Service.

JANUARY 20, 1972.

[FR Doc.72-1291 Filed 1-27-72; 8:50 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemption From Tolerance for Mesityl Oxide

A petition (PP 1F1106) was filed by Monsanto Co., 800 North Lindbergh

Boulevard, St. Louis, MO 63166, proposing establishment of an exemption from the requirement of a tolerance for residues of mesityl oxide when used as an inert solvent or cosolvent with other permitted solvents in pesticide formulations applied to growing crops prior to formation of the edible portion of the plant.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424). Subsequently, Part 420, Chapter III, Title 21 was redesignated Part 180 and transferred to Subchapter E, Chapter I, Title 40 (36 F.R. 22369).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that mesityl oxide is useful for the purpose for which an exemption is being established and that the exemption established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.1001 is amended by revising the items "Mesityl oxide" and "Methyl alcohol" in the table in paragraph (d), as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
Mesityl oxide...	Not for use after edible parts of plant begin to form. Do not graze livestock in treated areas within 48 hours after application.	Solvent, cosolvent.
Methyl alcohol		Do.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, Room 3175, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (1-28-72).

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

Dated: January 17, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.
[FR Doc.72-1195 Filed 1-27-72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-1—GENERAL

Subpart 1-1.7—Small Business Concerns

SIZE STANDARDS, DEFINITIONS, AND SET-ASIDES

Section 1-1.701-1 is amended to include a revised small business size standard for meatpacking plants and a revised definition for the term "annual receipts" which have been prescribed by the Small Business Administration for use in determining the status of a business as a small business concern. In addition, § 1-1.706-3 is amended to codify FPR Temporary Regulation 21 (36 F.R. 14080, July 29, 1971). This amendment extends the notification and appeal requirements applicable to withdrawal of joint determination small business set-asides to include unilateral small business set-asides where SBA has designated either resident or liaison representatives for an agency.

1. Section 1-1.701-1 is amended to modify the definition of "annual receipts" in paragraph (a) and to delete the reference in paragraph (h) to "Census Classification Code 2011, Meatpacking plants, 750." As amended, the section reads as follows:

§ 1-1.701-1 Small business concern (for Government procurement).

(a) *General.* A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in this § 1-1.701. "Concern" means any business entity organized for profit with a place of business located in the United States, including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative. "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets and interaffiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable ac-

counting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the Department of the Treasury, Internal Revenue Service, for Federal income tax purposes. If a concern has been in business less than a year its annual receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the concern's annual receipts to include the affiliate's receipts during the accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.

* * * * *

(h) *Table of specific industry employment size standards for the purpose of Government procurement.* (See footnotes at end of table.)

MANUFACTURING		
Census classification code	Industry	Employment size standard (number of employees)
* * * * *		
MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS		
2026	Fluid milk.....	750
2032	Canned specialties.....	1,000
2043	Cereal preparations.....	1,000
2046	Wet corn milling.....	750
2052	Biscuit, crackers, and pretzels.....	750
2062	Cane sugar refining.....	750
2063	Beet sugar.....	750
2085	Distilled, rectified, and blended liquors.....	750
2008	Vegetable oil mills, except cottonseed and soybean.....	1,000
2096	Shortening, table oils, margarine and other edible fats and oils, not elsewhere classified.....	750

2. Section 1-1.706-3 is amended to modify the requirements in paragraph (b) to read as follows:

§ 1-1.706-3 Withdrawal or modification of set-asides.

(b) If, prior to the award of a contract involving an individual or class set-aside for small business, the contracting officer considers the procurement of the set-aside portion from a small business concern would be detrimental to the public interest (e.g., because of unreasonable price), the contracting officer may withdraw either a joint or a unilateral set-aside determination. In the case of (1) a joint set-aside determination, or (2) a unilateral set-aside determination where SBA has designated either a resident or a liaison representative for the agency, the contracting officer shall initiate the withdrawal thereof by giving notice, containing the reason therefor, to the SBA representative (by telephone where liaison representatives are involved). Similarly, a class set-aside may be modified

so as to withdraw one or more individual procurements therefrom. If the SBA representative does not agree to a withdrawal or modification, the action may be appealed in accordance with the procedures set forth in § 1-1.706-2(a). This procedure is not applicable to automatic dissolutions of set-asides as provided in § 1-1.706-7. In all cases where SBA has not designated either resident or liaison representatives for the agency, the contracting officer shall withdraw a unilateral set-aside determination where he considers that procurement of the set-aside from a small business concern would be detrimental to the public interest (e.g., because of unreasonable price).

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

Effect on other issuances. This amendment cancels Federal Procurement regulations, Temporary Regulation 21 (36 F.R. 148080, July 29, 1971).

Effective date. This regulation is effective March 1, 1972, but may be observed earlier.

Dated: January 20, 1972.

ROD KRÉGER,
Acting Administrator
of General Services.

[FR Doc.72-1251 Filed 1-27-72;8:48 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-11; Notice 4]

PART 566—MANUFACTURER IDENTIFICATION

Coverage of Incomplete Vehicles

This notice amends Part 566 in Title 49, Code of Federal Regulations, to provide for the coverage of "incomplete vehicles,"

as defined in Part 568, Vehicles Manufactured in Two or More Stages. A notice of proposed rule making on this subject was published on November 2, 1971 (36 F.R. 20987). No comments on the proposed amendment were received, and the amendment is adopted as proposed.

Part 566, published on November 2, 1971 (36 F.R. 20977), requires manufacturers of motor vehicles and of motor vehicle equipment other than tires to which a motor vehicle safety standard applies to submit identifying information and a description of the items which they produce. In responding to a comment on the proposed regulation from an incomplete vehicle manufacturer, it was noted that while the regulation clearly covers intermediate and final-stage manufacturers (as defined in Part 568) it makes no reference to incomplete vehicle manufacturers. This amendment is intended to clarify this ambiguity by specifically providing for coverage of incomplete vehicles.

The incomplete vehicle manufacturer stated that he was unaware of the final use of his light truck vehicles and requested that he be permitted to submit a brief description of the incomplete vehicle expressed in the terminology of the industry as an alternative to the description in terms of final use. This method for incomplete vehicle manufacturers has been found acceptable, and the NHTSA accordingly grants this request.

In consideration of the foregoing, the NHTSA adopts the following amendments to Part 566 of Title 49, Code of Federal Regulations:

1. Section 566.4 is amended to read as follows:

§ 566.4 Definitions.

All terms defined in the Act and the rules and standards issued under its authority are used as defined therein. Specifically, "incomplete vehicle," "intermediate manufacturer," and "final-stage

manufacturer" are used as defined in Part 568—Vehicles Manufactured in Two or More Stages.

2. Section 566.5 is amended to read as follows:

§ 566.5 Requirements.

Each manufacturer of motor vehicles, and each manufacturer of covered equipment, shall furnish the information specified in paragraphs (a) through (c) of this section to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

(c) * * *

(3) In the case of motor vehicles produced in two or more stages, if the manufacturer is an incomplete vehicle manufacturer, the description shall so state and include a description indicating the stage of completion of the vehicle and, where known, the types of use for which the vehicle is intended.

EXAMPLE: "Incomplete vehicle manufacturer—Chassis-cab intended for completion as van-type truck."

If the manufacturer is an intermediate manufacturer, or a final stage manufacturer, the description shall so state and include a brief description of the work performed.

EXAMPLE: "Multipurpose passenger vehicles: Motor homes with GVWR from 8,000 to 12,000 pounds. Final-stage manufacturer—add body to bare chassis."

Effective date: February 1, 1972.

(Secs. 103, 108, 112, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1397, 1401, 1407; delegation of authority, 49 CFR 1.51)

Issued on January 24, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-1295 Filed 1-27-72;8:50 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 2]

PUBLIC USE AND RECREATION IN NATIONAL PARKS

Possession and Use of Drugs and Alcohol

Pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), it is proposed to amend Part 2 of Title 36 of the Code of Federal Regulations to add § 2.37 concerning possession and delivery of drugs and drug incapacitation; and to amend § 2.16 concerning possession of alcohol and intoxication.

The purpose of the proposed § 2.37 is to regulate the possession and delivery of certain drugs within park areas and to amend and recodify that portion of the current § 2.16 which deals with drug incapacitation.

The purpose of the proposed amendment of § 2.16 is to eliminate all reference to drug incapacitation and to change the language of § 2.16 regarding alcoholic beverages.

It is the policy of the Department of the Interior, whenever practicable to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendments to the Director, National Park Service, Department of the Interior, Washington, D.C. 20240, within 30 days of the publication of this notice in the FEDERAL REGISTER.

It is proposed that § 2.16(a) be amended to read as follows:

§ 2.16 Intoxication; possession of alcohol by minors.

(a) Presence in a park area when under the influence of alcohol, to a degree that may endanger oneself, or another person, or property, or may cause unreasonable interference with another person's enjoyment of a park area is prohibited.

It is proposed that § 2.37 be added to read as follows:

§ 2.37 Possession and delivery of controlled substances: Incapacitation.

(a) *Definitions.* (1) The term "controlled substance" means a drug or other substance, or immediate precursor, included in Schedules I, II, III, IV, or V of Part B of the Controlled Substance Act (title 21, United States Code, section 812) or any drug or substance added to these schedules pursuant to the terms of the Act.

(2) The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted by the United States or the jurisdiction in which he practices to distribute or possess a controlled substance in the course of professional practice.

(3) The term "delivery" means the actual, attempted or constructive transfer of a controlled substance, whether or not there exists an agency relationship.

(b) *Offenses.* (1) The delivery of any controlled substance is prohibited, provided that distribution by a practitioner in accordance with applicable law is permitted.

(2) The possession of a controlled substance is prohibited unless such substance was obtained by the possessor directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of his professional practice, or except as otherwise authorized by applicable law.

(3) Presence in a park area when under the influence of a controlled substance to a degree that may endanger oneself, or another person, or property, or may cause unreasonable interference with another person's enjoyment of a park area, is prohibited.

Dated: January 12, 1972.

RAYMOND L. FREEMAN,
Acting Director,
National Park Services.

[FR Doc.72-1292 Filed 1-27-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-373]

LETTUCE GROWN IN CALIFORNIA, ARIZONA, COLORADO, NEW MEXICO, AND DESIGNATED PART OF TEXAS

Decision With Respect to Proposed Marketing Agreement and Order and Referendum Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674), hereinafter referred to as the "act" and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Los Angeles, Calif., March 2-6, 1971, and continued at Albuquerque, N.Mex., March 10-12, 1971. It was held pursuant to a notice thereof which was published in the January 27, 1971, issue of the FEDERAL REGISTER (36

F.R. 1266) with a minor correction in the February 2, 1971, issue (36 F.R. 1541) upon a proposed marketing agreement and order regulating the handling of lettuce grown in California, Arizona, Colorado, New Mexico, and a designated part of Texas.

Based on evidence adduced at the hearing and the record thereof, the Deputy Administrator, Consumer and Marketing Service, on July 29, 1971, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision (including a proposed marketing agreement and order, hereinafter referred to collectively as the "order"), which was published in the FEDERAL REGISTER August 4 and 21, 1971 (36 F.R. 14316, 16517). It afforded opportunity to file written exceptions thereto within 20 days, and was later extended another 20 days to September 13, 1971.

Ruling on exceptions. Exceptions to the recommended decision were filed within the prescribed time by Halbert Moller for Growers Exchange, Inc.; Andrew A. D'Arrigo for D'Arrigo Bros. of California; Harold G. Bradshaw for Inter Harvest, Inc.; J. F. Barkley for Barkley Company of Arizona; Allan Grant for California Farm Bureau Federation; R. C. Samsel for Ralph Samsel Co.; Frank Eckel, Jr., for Eckel Produce Co.; Ray Koyama for Koyama Farms; James R. Martin for Cal-a-Pak; Ernest J. Holcomb for Western States Lettuce Producers Committee; Marshall H. Davis for Mel Finerman Co., Inc.; Carl Nakayama for New Mexico Lettuce Growers Committee; Frank R. Gailor for The Irvine Co.; Alfred P. Carpenter for The Alfred Carpenter Co.; Charles F. Wheatley, Jr. for Thomas M. Bunn; 25 individuals or firms from the Santa Maria-Guadalupe area of California; The Committee to oppose and defeat the Proposed Western States Lettuce Marketing Order; Allen L. Marlatt; and Stuart H. Russell for New Mexico Lettuce Growers Committee. Exceptions were also received from William H. Carder for United Farm Workers Organizing Committee, AFL-CIO; Bruce Parr for the Texas Vegetable Marketing Association and Robert V. Antle for Bud Antle, Inc.; however, such exceptions were all filed after the prescribed time.

Each of the exceptions filed within the prescribed time has been carefully and fully considered in conjunction with a thorough evaluation of the record evidence and the recommended decision in arriving at the findings and conclusions set forth in this decision. To any extent that any exception is not specifically ruled upon or the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto such exception is denied on the basis of the findings and conclusions relating to the issues to which the exception refers.

Exceptions filed by certain opponents of the proposed regulatory program charge in effect that officials of the Department had engaged in improper action in the decision making aspects of this proceeding, alleging improper discussions with proponents in the development of the proposals and related evidence and prejudgment of the issues, constituting a denial of due process of law in contravention of the requirements of both the Administrative Procedure Act and the applicable rules of practice.

The act and the rules of practice both contemplate and provide that the Department will inquire into the potential merits of a proposal for an order before a hearing is called. Under section 8c(3) of the act, a hearing notice is to issue "whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy * * *" of the act. Section 900.3 of the rules of practice (7 CFR 900.1-900.18) implements this by providing for a preliminary investigation as to whether there is reason to believe that the proposal will tend to effectuate the declared policy of the act. As shown by the rules of practice covering this type of proceeding, the hearing is a legislative, or factfinding, type of hearing rather than an adversary proceeding. In such hearings, Department personnel do not advocate one position or another, but instead endeavor to encourage development of a record containing all material facts relevant to the issues involved. There is no denial of due process in such circumstances. As to this proceeding, there was no prejudgment as the findings, conclusions, and actions recommended are all based on, and supported by, the record as a whole.

The act does not treat as to who may propose a marketing order. This is covered by § 900.3 of the aforesaid rules of practice which state that it may be proposed by the Secretary or by any other person. Accordingly, it is concluded that there was no denial of due process in this proceeding and the proceeding is legal.

It has been ascertained that the Department officials responsible for drafting the recommended decision read and considered each and every brief filed subsequent to the hearing. Also recommendations by persons other than proponents were adopted or recognized in the provision changes over those appearing in the notice of hearing. Between the time of issuance of a notice of hearing and the actual hearing, the proponents adopted changes in response to issues raised by other industry members. Exception was taken to the general findings on such grounds as not effectuating, not smallest area, should be a larger area, and the commodity to be covered should encompass "lettuce" grown outside the proposed production area. Exception was taken to the order itself as being ineffectually drawn and inoperable to effectuate the declared policy of the act. However, the findings and conclusions to which exceptions are taken are properly stated in the recommended decision and such findings and conclusions are ampli-

fied herein. Consequently, these exceptions are denied.

In the exceptions, reference is made to some Florida State and California State programs that were declared by State authorities to be unlawful. The lawfulness of the Federal program involved in the proceeding, authority for which flows from the Agricultural Marketing Agreement Act of 1937, as amended, and from interstate commerce powers of the Federal Constitution is, of course, unaffected by the rulings of such State authorities. Opponent's objections to the order on constitutional grounds are also overruled. The act and orders authorized by it have been found by the courts to be fully constitutional.

Some exceptions made reference to alleged monopolistic and other activities contrary to antitrust laws that could be fostered or protected under the marketing agreement and order program covered by the recommended decision in this promulgation proceeding. The act provides that the making of a marketing agreement shall not be held to be in violation of any of the antitrust laws of the United States; however, such an agreement, when accompanied by an order as here proposed, may contain only those provisions that are authorized for orders by the act. The act does not provide a blanket exemption from all antitrust laws. Such exemption extends only to acts or actions which are authorized or required by the marketing agreement and order. The aforesaid marketing agreement and order are concerned with establishing more orderly marketing conditions for lettuce in the production area to alleviate the marketing problems that now exist and that may reasonably be expected to continue for some time unless adjustments are made. The committee established to administer the order is composed of members of the industry, selected as provided in the act to allow for reasonable representation of producers and handlers in the determination of committee actions. Moreover, in connection with volume regulation under the order, these actions are limited, by the order, to such matters as making recommendations for regulation, checking compliance, and establishing base quantities and allocations for producers. Further, final action with respect to volume regulations is by the Secretary; and all committee actions relating to the establishment of base quantities and allocations for producers are, as provided in the order, expressly made subject to review by the Secretary.

Some exceptors urged that producers should be informed of the total base quantity of the industry prior to their voting in a referendum. However, such information would not be available prior to such a referendum and would, in fact, become available only on the basis of information submitted pursuant to the regulatory program if it becomes effective.

Numerous exceptions were filed regarding the extent, if any, of lettuce regulation and size of the production area. These ranged in scope from no regulation to a production area comprising

all lettuce producing areas in the United States. Some contended the program would increase competition from unregulated areas. While this contention may be true to a degree, the impact is not likely to be significant due to climatic and economic factors that limit production in such unregulated areas. In contrast, exceptions were also filed to eliminate parts of the production area from the program. As pointed out in the recommended decision, however, the movement of any production area lettuce is inextricably intermingled in the market, and in direct competition, with other production area lettuce. Exemption of any part of the production area could therefore undermine the overall effectiveness of the program by, for example, allowing unlimited quantities of such competing lettuce to be added to the maximum quantity of regulated lettuce deemed necessary to effectuate the declared policy of the act. The act requires that the production area be limited to the smallest regional production area found practicable, consistent with carrying out the declared policy of the act and the production area hereinafter described is found to meet these criteria.

The definition of the production area appearing in the recommended decision (insofar as the State of Texas is concerned) reads as follows: "those counties in the State of Texas north of and in which no part of U.S. Highway 90 between the cities of Orange and Del Rio is located." Since U.S. Highway 90 extends north and west from Del Rio to Van Horn, this definition could perhaps be construed as encompassing certain areas south of the segment of U.S. Highway 90 situated west of Del Rio. Such interpretation would be incorrect. The record shows that the production area should not encompass any area of Texas south of U.S. Highway 90, and further, that lettuce-producing areas north of U.S. Highway 90 (including counties in the western portion of the State, e.g., El Paso County) should constitute a part of the production area. Inasmuch as the portion of U.S. Highway 90 that is west of Del Rio does not course through lettuce producing regions, it would facilitate administration of, and operations under, the order to fix as part of the southern boundary of the production area the segment of U.S. Highway 90 from Del Rio to Van Horn. However, the portion of U.S. Highway 90 that runs from Del Rio to Orange cuts through some lettuce producing counties (e.g., Uvalde County) and through lettuce farms therein. It would be impractical to administer such a program applicable to only a part of a lettuce-producing county or farm. It is therefore necessary in order to effectuate the declared policy of the Act, for the production area to exclude all counties from Del Rio to Orange intersected by U.S. Highway 90.

Additionally while all areas in the State of Texas south and west of the western end of U.S. Highway 90 may be construed as being south of such point and would be excluded from the production area, such excluded areas should be

more explicitly described. This should be done by excluding that portion of Texas that is south of a line due west from Van Horn. The recommended decision and order are revised accordingly.

Another exception maintained that other types of lettuce, such as soft lettuce, should be included under the program. It is found, however, on the basis of the record and as stated in the recommended decision that the regulated commodity should be limited to iceberg-type head lettuce grown in the production area inasmuch as it is a distinct commodity with no perfect substitute. While other types of lettuce, regardless of where grown, and other salad vegetables are partially substitutable for this commodity, they are produced and handled differently and their regulation would not be feasible under this program.

Exceptions were filed that the order violates the democratic concept of equality of voting and weights the referendum and operation of the order very heavily in favor of grower-handlers and on producers in California and Arizona.

It seems evident that having handlers (whether or not they are also producers) on the committee who handle lettuce year round will be an important asset to the committee by providing a broad perspective of the production area lettuce marketing situation from month to month and district to district. There is nothing inherently unlawful in such an arrangement.

As discussed in the recommended decision, producer representation on the committee should be distributed among the districts in the production area on the basis of their past record of acreage and production in each district. This basis should provide equitable representation on the committee and should also provide the separate districts with reasonable representation, thus recognizing that the California and Arizona portions of the production area account for a substantially large majority of the lettuce production. Moreover, the reapportionment and redistricting authority in the order should assure the making of such adjustments in the future as would be warranted in committee representation to reflect significantly changing conditions.

It is not unlawful, arbitrary or capricious to give proper weight to the 12-month handling of lettuce, in the selection of nominees for handler members, by the voting handlers. There is nothing in the Constitution or in the act which would compel the selection of committee members on a one-person, one-vote basis, as contended by opponents. Section 8c (7) (C) of the act does not restrict the Secretary in this fashion and, in fact, gives him wide discretion in the nature of the agency or agencies to be employed by him to administer an order and how that agency will be established. In regards to the referendum, it should be noted that the act (section 8c (8), (9) and (19)) expressly recognizes that the volume of the commodity produced as well as the number of producers voting may be controlling factors on the important question of whether a marketing

order is to be issued and made effective with or without a marketing agreement.

Exceptions contending that the order will unlawfully discriminate in favor of handlers with large volumes of lettuce are without merit. All handlers, large or small, will be restricted as to the volume they may purchase from or handle on behalf of any and all producers under a uniform rule based upon the amounts sold by such producers in the representative period as authorized by section 608 c(6) (B) of the act.

Exceptions were offered that the order would deny entry into lettuce growing to a new producer. To the contrary, provision for entry of new producers is expressly provided in § 53(c) of the order as hereinafter set forth. Furthermore, it is required that any new base quantities be divided equally among all base quantity periods in the season, thus assuring that all applicants would have an equal opportunity for entry. Also, provision is made for the free transfer of base quantities thereby further affording new producers opportunity to achieve entry.

Contentions were made but no factual evidence offered that the proposed program would create undue monetary value for base quantities and allotments thereunder. Safeguard against such an occurrence is provided inasmuch as under the order only the Secretary may establish the various allocation periods and the applicable total allocations; and all base quantity applications and determinations with respect to the establishment of applicable base quantities will be subject to review by the Secretary. Also, the committee may establish only such rules, guides, bases, or standards, as are approved by the Secretary, to be used in determining base quantity awards or adjustments.

Several exceptions stressed the need to delay issuance of the initial volume regulation to provide adequate time for handlers, producers, and the committee to prepare for operations under the program. One contended that issuing such regulation in the middle of the season would be discriminatory, and therefore should not be effective prior to August 1, 1972, the beginning of the season or fiscal period. Others suggested a delay of at least 120 days—which is the approximate time period from lettuce planting to harvest. In order to provide equitable treatment of producers and handlers and to insure adequate time for preparations these exceptions are granted and the order as hereinafter set forth requires that no volume regulation shall become effective before August 1, 1972, but in any event not until at least 120 days after the effective date of the order, if the order becomes effective.

Exceptions were filed opposing the exclusion of the 1970-71 season's sales in determining base quantities. They contended that the options listed in the recommended decision favored producers with histories of "declining production" and that it would "seem only equitable to permit the use of the most recent year's production for these producers with expanded production." Further,

they discounted the contention in the recommended decision that any substantial expansion could have occurred in the 1970-71 season as a result of the proposed marketing agreement and order described in the notice of hearing. That proposal, published in January 1971, did not state that credit would be given for lettuce produced and sold during the 1970-71 season. In view of this, it appears unlikely that harmful expansion of production would have been encouraged in anticipation of gaining an advantage in computation of base quantities. Also, it would be inequitable not to include any 1970-71 sales as part of the sales in the applicable representative period. Such sales could well tend to reflect the most recent trend in producers' lettuce sales and would also give recognition to the entry of new producers during the season in which the hearing was held. Such would provide the most equity among producers. Section 53 of the order and the portion of the recommended decision dealing with this matter are modified accordingly to add the 1970-71 season as an additional optional season in determining base quantities. On the basis set forth in the recommended decision and the supplemental criteria and considerations herein, it is concluded that the 1964-65 season through 1970-71 season is a reasonable and proper initial representative period.

The record indicates that some lettuce growers in the production area produce lettuce for several years prior to the 1967-68 season but because of adverse growing conditions or weather conditions (such as hail or freeze) in their producing regions since that time were unable to finish and market a lettuce crop during each of the subsequent seasons. In recognition of this circumstance caused by conditions beyond the lettuce grower's control where he made at least a bona fide effort to produce lettuce in any one or more of the marketing years 1967-68, 1968-69, 1969-70, 1970-71, provisions should be included in the order for such a lettuce grower to be considered as a producer for purposes of the establishment of base quantities for him pursuant to § 53(b) (1) during the initial season. The absence of such an effort by a lettuce grower during those marketing years should indicate that such person ceased being a lettuce producer and should, therefore, not be eligible for an initial base quantity under § 53 of the order.

Exceptions were filed recommending the elimination of the possibility of double counting of base histories of lettuce producing businesses acquired from producers. According to the record, a person who acquired such a business from a producer should be entitled to all of the base history referable to such producer's business in computing base quantities for such person. Conversely, the disposing producer should not be entitled to any of that base history. These exceptions are granted so as to make the foregoing considerations and requirements explicit in the recommended decision and in the order. Section 53(b) (1) of the order

and the recommended decision are modified accordingly.

A number of exceptors complained that total base quantities issued under the program would be inflated beyond aggregate sales made in any comparable base quantity period, and implied that this would lead to excessive marketings. Although the former is true, it is of little consequence, as pointed out in the recommended decision in connection with the assignment of additional base quantities, as the total allocation is the significant figure.

In contrast, another exceptor stated concern that the order would restrict expansion of lettuce producing acreage. While no direct acreage controls are provided, this development is not unlikely in a program designed in part to curb excessive marketings; and a secondary effect of this nature is not incompatible with the objectives of the act. Thus these exceptions are denied. It was contended, in exceptions, that the allotment program under the order would result in continuous supplies of poor quality lettuce due to overmature lettuce being marketed while younger lettuce is held, hoping for an increase in the allocation. Based on the record, with a limit on the quantity which could be marketed, handlers would tend to ship the higher value (and hence more desirable) lettuce in preference to that of lower quality and value. Any handler shipping lettuce of lower quality and value under an allocation in expectation of an increased total allocation takes the risk of such a business judgment whereby the absence of such an increase would result in higher value lettuce not being shipped or not receiving the higher value return therefor.

Exceptions were filed to the effect that base quantities and allocations should be considered property rights of the land owner and as such should be tied to specific parcels of land. The contention was made that under another marketing agreement and order program issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, base quantities may be transferred only in accordance with the lease contract or with the consent of the land owner and therefore such requirement should apply to the regulatory program being considered here. Regardless of the requirements of other programs, the record evidence in this proceeding does not support such a provision. Further, the statute does not require that base quantities or allocations with respect to lettuce relate only to the acreage upon which the lettuce was grown. The act does specifically provide that the total quantity " * * * to be purchased, or handled during any specific period or periods shall be apportioned equitably among producers" in accordance with the act but makes no reference to the acreage upon which the commodity was produced.

Exception was taken that the committee or the Secretary should maintain control and supervision of transfers. The contention was that without supervision,

such producers would, at their own option, be able to transfer lettuce operations to different acreages. However, this problem can arise without the existence of an order; and the order should not concern itself with these matters. Unlike the price support programs which are issued under different legislation and which involve acreage control and acreage allotments assigned to the farm, based on the farm history, the Agricultural Marketing Agreement Act of 1937, as amended, expressly provides for apportioning the total quantity to be purchased or handled during a specific period among producers, based on sales by producers in a prior period, without reference to the particular acreage where the commodity was grown. Thus, a producer is entitled to, receives, and retains, consistent with the method of allotting set forth in the marketing order, a base quantity. Just as the base quantity provisions of the order do not directly regulate lettuce production or confine it to any particular parcel of land, neither should the transfer provisions. Consistent with the provisions of the order, this base quantity is his. Hence, he should be able to use it on locations of his choosing or to dispose of it to another producer. Neither the committee nor the Secretary should interfere with such actions, but knowledge sufficient to permit operation of the program should be obtained. As to the issue of denying a transfer until the committee and the Secretary are satisfied that no party or parties having an interest in the lettuce crop, machinery, buildings or land will be injured by such transfer, such would place upon them responsibilities which they may find impossible to discharge. Here, too, the order should not concern itself with these matters. Accordingly, the exception is denied.

An exception was filed that the export exemption proposed in the notice of hearing should be included in the order. It indicates that the exemption of lettuce exports from volume regulations might contribute to the development of new foreign markets and thus aid in improving the balance of payments of the United States, while not impeding the effectiveness of the program.

While these export goals would be commendable, the record evidence does not support the need for authority for exemption of such exports and the exception must be denied.

One exceptor urged that the order require that a referendum be conducted every 3 years after its effective date to ascertain whether continuation of the program is favored by producers. Such a requirement is unnecessary in that provision is made in the order hereinafter set forth for a mandatory referendum every fifth year, and that further, the Secretary is directed by the statute and the order to terminate the provisions of the order at the end of any marketing year whenever he finds that such termination is favored by the requisite majority of producers. Moreover, he is not precluded from conducting a referendum at any time in order to arrive at a finding with

respect to termination or continuation of the order.

The material issues, findings and conclusions, rulings, and the general findings of the recommended decision (36 F.R. 14316) are hereby approved and adopted and are set forth in full herein subject to correction of inadvertent, grammatical or obvious errors and the following modifications:

1. Under Material Issue No. (3), paragraph 2 (p. 14317), concerning the definition of the production area, is revised and two new paragraphs are added clarifying the area included in Texas.

2. Under Material Issue No. (5)(a) concerning definition of terms, paragraphs 5, 6, 7, 8, and 9 (pp. 14318-14319) are revised.

3. Under Material Issue No. (5)(b) (p. 14319) concerning committee representation, paragraph 3 is revised.

4. Under Material Issue No. (5)(d) concerning method of regulating, a new paragraph is added immediately following paragraphs 13, 22 (p. 14322), and 48 (p. 14324), paragraphs 19, 22 (p. 14322), 28, 36 and 38 (p. 14323) are revised.

5. Under Material Issue No. (5)(g) (p. 14326), a new paragraph is added immediately following paragraph 3 concerning a periodic referendum.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction in this instance;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the commodity, the persons, and the marketing transactions to be regulated; and

(5) The specific terms and provisions of the order including:

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, and duties of a committee which shall be the local administrative agency for assisting the Secretary in administration of the order;

(c) The incurring of expenses and the levying of assessments on handlers to obtain revenue for paying such expenses;

(d) The method of regulating the handling of lettuce grown in the production area, including the establishment of base quantities and allocations and other terms and provisions relating to volume regulations;

(e) The establishment of requirements for reporting and recordkeeping on marketing transactions;

(f) The requirements of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(g) Additional terms and conditions of miscellaneous provisions published (36 F.R. 1266) as §§ ____86 through ____96

which are common to marketing orders and other terms and conditions published as §§ 97 through 99 which are common to marketing agreements only.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

The proposed program should regulate the handling of lettuce by restricting the quantity that handlers may purchase from or handle on behalf of any and all producers during an allocation period of 1 or more weeks duration. It should provide a method of allotting the quantity of lettuce during any base quantity period among handlers based on amounts sold by producers during a prior representative period determined by the Secretary to the end that the total quantity to be handled from such crop will be apportioned equitably among producers. This is for the purpose of carrying out the declared policy of the act by establishing and maintaining orderly marketing conditions and increasing returns to producers of lettuce as provided therein.

(1) Lettuce is the Nation's most important fresh vegetable crop in terms of volume and total value. Its average annual farm value during the past 3 years was over \$220 million. The average U.S. annual production of lettuce over the past 3 years was nearly 4.5 billion pounds, of which over 90 percent was grown in the proposed production area.

Production area lettuce is marketed in substantial volume in every month of the year. During 1970 the average monthly shipments were approximately 7,800 carlot equivalents. Approximately 65 percent of the unloads of production area lettuce shown in USDA's Market News reports of unloads in 41 cities are accounted for by 38 major cities outside of the production area. Every one of the 41 cities reported unloads of production area lettuce in 1970 and for practically every month. Expert testimony indicates that production area lettuce is shipped to virtually every city in the United States.

Production area lettuce is so grown, harvested, and packed that virtually any given lot may be, and often is, sold or transported to any market in the United States. The industry's domestic market for lettuce is the entire United States and its members are in daily contact with buyers across the Nation. At times shipments are diverted from initial destinations to other destinations either within or outside of the States of origin. With modern communication and transportation systems, lettuce prices or supplies in any one location are promptly known elsewhere and have a direct effect on lettuce prices and supplies in all other locations.

No significant differentiations occur in sales as between lettuce for use within a State in the production area as compared with lettuce for use in other parts of the United States or the world. If a program regulating only interstate and foreign commerce in lettuce were to be made effective, the market for lettuce in some States within the production

area would be greatly overburdened with the unregulated supplies resulting in lower prices in such States. In turn, this would adversely affect the price of lettuce in other States. The evidence of record is that all movement of lettuce in marketing channels is inextricably intermingled and in direct competition, and hence it is concluded that the handling of lettuce within the respective States in the production area directly burdens, obstructs, or affects interstate and foreign commerce to such an extent as to make necessary the regulation of interstate commerce in lettuce as well as the interstate and foreign commerce in lettuce.

Lettuce is an agricultural commodity within the group of vegetables named in the act to which its marketing authority may be applied.

It is determined from substantial evidence in the record of hearing that the right to exercise Federal jurisdiction in the marketing of lettuce grown in the production area hereinafter defined is proper and appropriate under the act and the order hereinafter set forth.

(2) Production of lettuce in the proposed production area has trended upward in the past decade, going from 34.2 million hundredweight in 1961 to over 42.4 million in 1970. Both increased acreage and improving yields accounted for the rise. During most years from 1961 through 1970, some lettuce was not marketed due to adverse market conditions. However, such losses of seasonal crops became more frequent and larger during the latter half of the period. Less than one-tenth of 1 percent of New Mexico's 1965 lettuce tonnage was not marketed. But growers in that State abandoned 3 percent of their 1969 output, and California growers did not market 5 percent of the lettuce that was available for marketing during the last half of 1970.

Season average farm prices for lettuce were less than parity prices each year during the 1961-70 period. The simple average for the 10 years is less than 82 percent of parity, ranging from only 69 percent of parity in 1961 to 95 percent in 1966. The ratio of farm to parity prices has declined since 1966, reaching a low of 70 percent in 1970.

During this period of relatively low prices, producers' costs for virtually all supplies and especially labor have steadily increased. Record evidence shows that costs per acre to grow and harvest lettuce in the Salinas, Calif. area, were approximately \$1,067 in 1970. This represented an approximate 57 percent increase over 1964 costs.

Exhibit 47 regarding operations in the Yuma, Ariz., area further illustrates the cost trend, showing increases over the last 10 years in virtually every item. These included increases of 114 percent for growing costs per acre; 100 percent for preharvest labor, 84 percent for harvest labor, and 67 percent in cooling charges.

A number of witnesses presented evidence that lettuce prices have not been returning the cost of production. For example, Exhibit 65 (table 6) shows the North Texas area lettuce industry had negative producer returns in eight of the

last 11 years with total losses of \$519,000 or more in 1960 and 1969. The average annual total producer return for the 11 years was a minus \$181,000.

Exhibits 14 through 17 show lettuce industry losses in Imperial County, Calif., as follows: 1966-67—\$8,875,744; 1967-68—\$4,558,153; and 1969-70—\$10,801,920. Although official figures are not available for the 1970-71 season, it was generally expected that they will show a heavy loss. All of the areas that compete during the Imperial County, Calif., shipping season have about the same costs and experience the same market conditions. So the negative returns likely were common in all competing areas as well.

While burdensome on an annual basis, lettuce supplies vary sharply within the year. Exhibit 36 shows that U.S. weekly shipments during the January 1969-January 1971 period ranged from 1,033 to 2,459 carlot equivalents. Such drastic changes in short-run supply resulted in U.S. average prices ranging in 1970 from a low of 50 percent of parity in February to 127 percent in September.

With both supplies and prices swinging widely, gross returns have been volatile. Production area lettuce has produced agricultural income ranging from about \$109 million to nearly \$218 million in annual farm value during the last decade. The element of economic risk in lettuce production is among the highest in agriculture.

Many farmers have not been able to withstand the extreme income variability and continuing periods of loss. Census data show that 1,800 farms in the five-State area harvested lettuce for sale in 1959, 1,400 did so in 1964, and by 1970, their number was down to about a thousand. Evidence by hearing witnesses attested that more growers were likely to be forced out soon if the current marketing system continued.

Record evidence also indicates that total lettuce marketings have been below its potential because retailers are reluctant to promote lettuce even in times of abundant supply due to the short-term irregularity in production and price. Growers and shippers believe that by eliminating the wide variations in shipments they can smooth out price levels, reduce the need for the wide spreads between shipping point and retail prices, and sell more lettuce than at present.

It was contended by several witnesses at the hearing that the order would reduce industry income from lettuce because the demand for lettuce was elastic. The foundation for this contention was a statistical analysis of supply-price relationships in New York City published in 1957 by the University of Arizona. The applicability of that study to current conditions is at best questionable in view of the substantial changes in marketing practices that have occurred in the past decade. In addition, the fact that the analysis concerned terminal market relationships discounts its value as a measure of elasticity at the shipping point level. Subsequently, the University of Arizona analyzed economic relationships for more recent years at the shipping point level and concluded in effect that

the total demand for lettuce is inelastic throughout almost all of the relevant range, and therefore, it is to be expected that any reduction in total quantity shipped that would likely result from a marketing control program would cause the total net revenue to the grower to increase.

Several witnesses at the hearing testified that although overproduction was a real problem to the lettuce industry, the situation was self-correcting through voluntary reductions in production to bring supply in line with demand. Recent downturns in New Mexico lettuce output were cited as illustrations of better ways of attaining orderly and stable marketing conditions. Production in New Mexico in 1970 was reduced 29 percent from a year earlier, largely because of less acreage. However, aggregate production in other production area States increased, so for the much smaller crop, New Mexico producers received a 27 percent lower price. This indicates that efforts to regulate supply voluntarily do not succeed.

The record evidence shows that individual lettuce growers have been unable to cope with the industrywide problem of balancing supply with demand. Reductions by individual producers, or in one area, have been negated by increases by other producers or in other producing districts.

On the basis of their experience over the past decade, numerous grower and handler witnesses with long experience in production area lettuce production and marketing attested that in the absence of a program such as they proposed, supplies will likely continue to exceed demand, resulting in depressed prices. The need exists to regulate marketings through allocations to producers, thereby stabilizing supplies, promoting orderly marketing, and tending to improve prices toward parity, with due regard to interests of consumers.

The need for the order hereinafter set forth, is determined to exist in fact. Further, the terms and provisions of such order are authorized by the act as a means of establishing and maintaining orderly marketing conditions for this commodity.

(3) The term "lettuce" should be defined to identify the commodity to be regulated hereunder. Such term should mean all varieties of lettuce classified under the botanic name *Lactuca sativa*, commonly known as iceberg-type head lettuce, grown within the production area. It should exclude "soft lettuce" such as Romaine, endive, and Bibb lettuce and should also exclude iceberg-type lettuce grown outside the production area because these have significantly different characteristics and they are not considered as exact substitutions for production area lettuce.

A definition of the term "production area" should be incorporated into the order to designate the specific area in which the lettuce to be regulated is grown. It should include all of the States of California, Arizona, Colorado, and New Mexico, and all parts of the State of Texas except: (1) Those counties inter-

sected by U.S. Highway 90 between the cities of Orange and Del Rio and all counties south thereof, (2) all area south of U.S. Highway 90 between the cities of Del Rio and Van Horn, and (3) all area south of a line due west from Van Horn.

The definition of the production area appearing in the recommended decision (insofar as the State of Texas is concerned) reads as follows: "those counties in the State of Texas north of and in which no part of U.S. Highway 90 between the cities of Orange and Del Rio is located." Since U.S. Highway 90 extends north and west from Del Rio to Van Horn, this definition could perhaps be construed as encompassing certain areas south of the segment of U.S. Highway 90 situated west of Del Rio. Such interpretation would be incorrect. The record shows that the production area should not encompass any area of Texas south of U.S. Highway 90, and further, that lettuce-producing areas north of U.S. Highway 90 (including counties in the western portion of the State, e.g., El Paso County) should constitute a part of the production area. Inasmuch as the portion of U.S. Highway 90 that is west of Del Rio does not course through lettuce-producing regions, it would facilitate administration of, and operations under, the order to fix as part of the southern boundary of the production area the segment of U.S. Highway 90 from Del Rio to Van Horn. However, the portion of U.S. Highway 90 that runs from Del Rio to Orange cuts through some lettuce-producing counties (e.g., Uvalde County) and through lettuce farms therein. It would be impractical to administer such a program applicable to only a part of a lettuce-producing county or farm. It is therefore necessary in order to effectuate the declared policy of the act, for the production area to exclude all counties from Del Rio to Orange intersected by U.S. Highway 90.

Additionally while all areas in the State of Texas south and west of the western end of U.S. Highway 90 may be construed as being south of such point and would be excluded from the production area, such excluded areas should be more explicitly described. This should be done by excluding that portion of Texas that is south of a line due west from Van Horn. The definition of the term "production area" should read as hereinafter set forth. This production area has accounted for over 90 percent of the U.S. lettuce production during the past 3 years. It is the smallest regional production area practicable for application of the order. The lettuce from all districts in the production area is of the same varieties and grown under similar cultural practices. It is harvested, packed, cooled, and transported in a similar manner and is purchased by the trade at comparable prices for similar quality and is all known as Western iceberg lettuce.

There are numerous producer-shippers who operate in more than one of the States or districts of the production area. Applying the order to any lesser area could materially jeopardize the effectiveness of the program. California usually

accounts for two-thirds or more of the annual U.S. lettuce supply. Arizona, New Mexico, Colorado, and a designated part of Texas each account for substantially smaller proportions of annual shipments. But each assumes an important role as a supplier within the year. If any district were excluded from the production area, its shipments could have a very detrimental effect on the program, especially during the months when its shipments are at a peak. The acreage in any one of the production area districts would likely be expanded if it were excluded from the order. Thus, while contributing to the oversupply of lettuce, producers in such districts would benefit from the operation of the order at the expense of other producers whose lettuce was being regulated.

(4) The term "handler" should be defined in the order to identify the persons who would be subject to regulation under the order. Therefore, the term should apply to all persons who perform any of the activities within the scope of the term "handle" as hereinafter defined. Obligations are placed on such persons for meeting requirements of the order and the regulations issued thereunder such as volume limitations, assessments, and reporting requirements.

Common or contract carriers transporting lettuce owned by another person should be excluded from this definition as their function is solely to supply freight or other services on an agency basis for other persons who own the commodity.

A producer who handles the lettuce he has produced is considered to be a handler when he performs the handling function on such lettuce. However, harvest crews, whether or not permanently employed by the owner of the lettuce, are considered as performing harvest activities on a custom basis, i.e., service on a fee basis, and have no other interest in or control over the commodity or its disposition. It is not necessary for purposes of order operation that the crew or its members be considered as handlers.

"Handle" should mean the act or function, or both, whereby any person places lettuce in the current of the commerce within the production area or between the production area and any point outside thereof.

According to the record, lettuce harvesting and market preparation processes generally are as follows: Lettuce in most fields matures at irregular rates so that in harvesting it is necessary to select and harvest each individual head, leaving the immature heads for later harvest. As many as five different harvestings may be required to complete the harvest on an individual field, but most fields require three.

Nearly all of the production area lettuce volume is harvested and packed by the so-called field pack method. Handlers' crews consist of about 30 to 35 individuals—typically 16 cutters, eight packers, four loaders, and two water boys plus a crew foreman and his assistants—who work as a unit. The cutters examine each individual head, and if the proper size and maturity, cut it from its roots.

The head is then inspected for defects, and trimmed to allow four to five wrapper leaves to remain. The packers follow, placing the heads in a two-layer-pack standard corrugated carton. The top layer is washed with water, and the carton is closed, stapled, and loaded on pallets aboard field trucks, to be transported to vacuum cooler plants. The packaged lettuce is cooled to 34° and loaded into rail cars and trucks for shipment to market under controlled refrigeration. Although most harvested lettuce is field packed, some is moved to packing sheds for packaging and other handling.

The harvesting of lettuce terminates its production and brings the harvested lettuce into the visible supply on which trading takes place. Therefore, the harvesting of lettuce should be considered as an act of handling and the person responsible for such act as a handler.

Since harvesting is the initial act of handling, it should be the point of impact for the application of allocations, as hereinafter discussed, and for the determination of compliance therewith, except as otherwise specifically provided.

Applying the allocation in this manner at an early stage of trading should effectively coordinate the quantities of lettuce that may be purchased from producers, and handled on behalf of producers, with the allocations established for a particular allocation period. Conformance with the respective allocations of producers, in terms of the amount that may be handled, should be readily ascertainable by measurement on the basis of number of cartons of harvested lettuce, regardless of whether packed in the field or at the packinghouse.

In addition to the harvesting function, handlers are responsible for packaging, selling, shipping, and transporting harvested lettuce, and such acts should be construed as handling whether or not on behalf of a producer.

The record evidence shows that some lettuce is harvested but subsequently condemned by regulatory authorities because of quality factors, or rendered unsaleable by mishandling during packing, moving, loading, cooling, etc. When such lettuce, condemned or otherwise rendered unsaleable, is destroyed before shipment, the committee may credit an equal quantity to the producer's allocation as a replacement for such quantity of lettuce already charged. It should not be creditable to any allocation period subsequent to the period in which the destroyed lettuce was originally handled.

Although it is normally considered that the handler function begins with the cutting of the lettuce in the field, the harvested heads of lettuce continue as the property of the producer unless and until he sells his lettuce. In such circumstances, the handler acts on behalf of the producer in performing the various handling functions to prepare it for market as a matter of practical convenience in the operation of this industry.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout

the order. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meanings wherever they are used.

"Secretary" should be defined to include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the U.S. Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citations for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations throughout the order.

The definition of "person" follows the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

"Producer" should mean any person engaged in a proprietary capacity in the production of lettuce in the production area for market: *Provided*, That in the case of so-called joint venture agreements wherein the parties to the agreement contribute resources to a single endeavor to produce and market a crop of lettuce and each party in such joint venture shares in the production risks and ownership of such lettuce, each such party shall be deemed a producer in his own right to the extent of such ownership as specified in the agreement. Such a person would normally have the right to sell lettuce so that handlers may purchase from such person or may handle it on such person's behalf.

Producers include individuals, partnerships, corporations, or any other business units which engaged in such a proprietary capacity in the production of lettuce and own all or a portion of the lettuce produced. The term "partnership" should include husband-and-wife with respect to ownership of the lettuce produced and vested in them as tenants in common, joint tenants by the entirety, or under community property laws as community property.

The record indicates that a substantial amount of production area lettuce is produced under joint venture arrangements by which several persons contribute resources to a single endeavor to produce and market a lettuce crop. In such ventures, one party is the farmer who may contribute one or more factors such as his labor, time, production facilities, or cultural skills. The other party typically is a handler who may contribute money and cultural supervision, the latter particularly as the crop nears the harvest stage. The handler generally also contractually agrees to harvest and market the venture's lettuce at a fixed fee per unit, such as a carton. Also, as each party in such joint venture shares in the production risks and ownership of such lettuce, each party should

be deemed a producer in his own right to the extent of such ownership as specified in the agreement.

For purposes of determining base quantities under the order pursuant to § 53, it would be appropriate that all parties to any such joint venture be considered as producers, inasmuch as each had a proprietary interest in the lettuce produced by the venture. "Proprietary interest" is construed as sharing in the production risks and ownership of a joint venture's crop of lettuce through a direct contractual arrangement between the parties in the venture. The handler usually shares in the risk by financing the production, advancing as a guarantee, part or all of the growing expenses. Each party to the joint venture should be considered a producer in proportion to the share of his proprietary interest as specified in the contract reflecting their respective proprietary interests. Thus, in a so-called 50-50 joint venture (one in which each party has a proprietary interest in one-half of the crop) each party should be considered the producer of half of the lettuce that was produced and marketed.

Occasionally a field of lettuce may be sold before it is ready to be harvested. The buyer of such unharvested lettuce should then also be considered a "producer" along with the seller as each would bear production risks and otherwise have proprietary interest. They should share 50-50 in any resulting credit for base quantity purposes unless otherwise specified in a written agreement regarding the sharing of such base quantities. If the second producer similarly sells the same crop in the field unharvested he should similarly share his half, or other percentage, of the aforesaid resulting credit with the purchaser who should also be considered as a producer.

Since there are so many other possibilities regarding producer arrangements or actions such as foreclosures, bankruptcies, et cetera, rather than try to outline all cases, the order should provide for rule making recommended by the committee and approved by the Secretary to cover such situations.

Some lettuce is also raised by contract farmers, essentially salaried personnel who have no proprietary interest in the crop. Such individuals should not be considered "producers" under this program.

"Registered producer" means any producer registered with the committee pursuant to § 53. To obtain a base quantity, a producer should register with the committee, indicate his desire for a base quantity, and report and substantiate the number of cartons of his lettuce sold during a specified prior period or periods. The information furnished should clearly evidence sales by him in the representative period or on his behalf.

"Pack" should be defined as a specific quantity of lettuce in any type of container and which falls within prescribed weight limits, numerical limits, size limits, or any combination of the three, as prescribed by the Secretary upon recommendation by the committee so that whenever a pack regulation is issued

under the order its meaning will be readily ascertainable.

"Carton" should be defined as set forth in the order as a basis of providing a standard unit of measure for identifying lettuce production, shipments, sales, base quantities and allocations. Even though containers other than those covered by the term "carton" may be used, the quantity of lettuce in such containers could readily be converted to an equivalent in terms of "cartons."

"Marketing year," "season," and "fiscal period" should be defined to set forth an appropriate annual period of time with respect to financial operations and regulatory provisions and records under the order. Although production area lettuce is produced and marketed in or from the production area each month of the year, the most desirable annual period at the present time is the 12-month period beginning August 1 through the following July 31. This period is appropriate since on August 1 the number of districts engaged in production or marketing is at a seasonal low. Several States in the production area (Arizona, New Mexico, and Texas) are generally not shipping lettuce at that time. Planting of most fall and winter crops is not yet underway. However, to allow sufficient operational flexibility, authority should be provided to permit changing the term of the marketing year to cover a different series of 12 consecutive calendar months. Any such change should, however, be made effective by the Secretary upon recommendation of the committee. In this way the views of the administrative agency, the committee, should be able to apprise the Secretary of needed changes based on operational experiences.

(5) (b) Section 608c(7)(C) of the act provides for an administrative agency for effective operation of an order. It is desirable to establish such an agency to administer this order, as an aid to the Secretary in carrying out the purposes of the order and the declared policy of the act. The term "Western States Lettuce Administrative Committee" is a proper identification of the agency and reflects the character thereof. A committee of 18 members, with representation as herein-after provided in § ____20, with a like number of alternates, should be a workable, equitable, representative committee adequate to judiciously recommend marketing regulations and to satisfactorily handle the other various committee duties and responsibilities. Record evidence shows that because of the size of the production area and the nature of the program involved, a committee of 18 is considered the least number which would allow good representation from the various districts while holding, within reason travel and other committee expenses incidental to attendance at potential weekly committee meetings.

Since a primary purpose of the act is to increase returns to producers, a preponderance of committee members should be producers. Therefore, 15 of the committee members should be persons who are producing lettuce for market in the respective districts at the time of

selection and during their term of office, or who are officers or employees of such corporate producers in that district. A handler who is also a producer should not be precluded from being appointed as a producer member and vice versa. Three handler members and their alternates, selected from the production area at large and who handled lettuce during each of the 12 months of the season, should complement the producer representation, providing balanced judgments and a broad perspective of the production area lettuce marketing situation from month to month and district to district.

San Luis Obispo County of California, which was listed in District No. 5 in the notice of hearing, should be in District No. 1. The districts (i.e. the geographical divisions of the production area) delineate the producing sections generally in accordance with industry understanding of subdivisions of the production area. Producer representation on the committee should be distributed among such districts on the basis of their past record of acreage and production in each district. This basis should provide equitable representation on the committee and should also provide the separate districts with reasonable representation, thus recognizing that the California and Arizona portions of the production area account for a substantial large majority of the lettuce production. This should be accomplished by allowing District No. 5, with one-third of the harvested acres, three producer members. Districts No. 3 and 8, each with over 15 percent of the acreage should have two each. Each of the remaining districts should have one member.

The order should provide for reapportionment and redistricting so that the Secretary may, upon recommendation of the committee, give consideration to adjustments and to make adjustments when warranted in committee representation in the event of significantly changing conditions in the future, such as major shifts in production within the production area.

A 1-year term of office, with no limitation on successions in office, seems reasonable and will allow the lettuce industry to express its approval or disapproval of the committee membership near the end of each marketing year and prior to the beginning of a new one.

The proponents' proposal that a public meeting be held in each district to nominate producer members and alternates prior to May 15 of each year, or such other date as may be specified by the Secretary, is a proper and practical method of providing the Secretary with names of nominees the industry desires to have serve on the committee.

Persons who produce in more than one district have invested time, effort, and resources in each such district and have a direct interest in any regulation affecting their lettuce wherever grown. Thus if a producer grows lettuce in more than one district he should be represented in each such district and able to vote at nomination meetings in each such district.

Since the three handler members and their alternates are elected from the production area at large, an assembled nomination meeting might be impractical. Therefore, a mail balloting procedure should be permitted if recommended by the committee and approved by the Secretary. The committee could submit to every known handler a list of persons affiliated with and designated by handlers who handled production area lettuce during each month of the immediately preceding season. From such list each handler should vote for three persons. The committee should tabulate the returned ballots, with the three handlers having the most votes being nominated as members and the next three as alternates. The handler with the fourth largest vote should be the nominee for alternate to the handler with the highest vote, the fifth highest, alternate to the second, and the sixth highest alternate to the third. The entire voting process should be completed not less than 45 days prior to the pending term of office.

As the Western States Lettuce Administrative Committee will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide a special procedure for selection of the initial members.

Proponent testimony stressed the urgent need for prompt issuance of the order and regulations thereunder. It would be desirable to hold public meetings to nominate the initial committee members. However, as this procedure might cause undue delay, the Secretary should have the flexibility of accepting nominations obtained in other manners. The Secretary should be authorized to select the committee without regard to nomination in this case, or in other cases if for some reason nominations are not submitted to him in conformance with the procedures prescribed herein. Such selection should, of course, be on the basis of the representation provided in the order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in his position.

Provisions should be set forth in the order for the filling of any vacancies on the committee, including selection by the Secretary without regard to nominations where such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee.

The order should provide that an alternate member shall be selected for each member of the committee in order to insure that each district has the opportunity to have representation at meetings. Each alternate who is selected shall have the same qualifications for membership as the member for whom he is alternate so that during the member's absence or in the event that the member should die, resign, be removed from office, or be disqualified, the district

representation on the committee will remain unchanged. In such cases, the alternate should serve until a successor to such member has been appointed and has qualified.

With regard to committee meetings and procedure, the evidence of record shows that on actions not involving volume regulations, 10 members, including alternates acting as members, should be necessary to constitute a quorum and pass any motion. This should be adequate to reflect a representative and accurate cross section of industry thoughts and attitudes. However, on all motions to recommend volume regulations for a particular base quantity period, the record supports a different voting procedure. Since such action will vitally affect producers whose lettuce is or will be handled during that period of regulation, the only committee men who should qualify to vote are the three handler members including alternates acting as such and those producer members or their alternates from districts which are subject to allocation during that regulation period: *Provided*, That both the quorum and the number of concurring votes needed should be the majority of all those eligible to vote whether they are present or not.

The committee should have authority to follow procedures which will assure its proper and efficient operation. In order to facilitate the transaction of routine, noncontroversial business where it might be expensive and unreasonable to call an assembled meeting, or in other instances when rapid action may be necessary, the committee should be authorized to conduct meetings by telephone, telegraph or other means of communication. Since the committee may find it necessary to meet every week and since individual committeemen may have to travel many miles round trip to attend an assembled meeting, other arrangements may be vital to expedite transactions of the committee. Such possibilities as conference telephone calls or simultaneous meeting of groups of its members in two or more places with direct communications connections should be investigated.

Any votes cast at nonassembled meetings should be confirmed promptly in writing to provide a record of how each member, or the alternate acting in his stead, voted.

It is appropriate that the members and alternates of the committee be reimbursed for necessary expenses incurred when performing authorized committee business, since it would be unfair for them to bear personally such expenses incurred in the interests of all lettuce producers in the production area.

The committee should be given those specific powers which are set forth in section 608c(7)(C) of the act. Such powers are necessary to enable an administrative agency of this character to function properly under the marketing order. The committee's duties as set forth in the order are necessary for the discharge of its responsibilities. These duties are generally similar to those

specified for administrative agencies under other programs of this nature. It should be recognized that these specified duties are not necessarily all-inclusive and it is probable that there are other duties which the committee may need to perform which are incidental to and not inconsistent with its specified duties or the order.

An annual report should be prepared by the committee as soon as possible after the close of each marketing year to document fully its operations for the season to the industry and the Secretary.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it for its maintenance and functioning and to enable it to exercise its powers and perform its duties pursuant to the order. The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of the income and expenditures necessary for the administration of the order during such period. Each such budget should be submitted to the Secretary with an analysis of its components. Such budget and report should also recommend to the Secretary the rate of assessment believed necessary to secure the income required for that period. While expenses and income cannot be anticipated with exact mathematical certainty, the committee with its knowledge of conditions within the industry will be in a good position to ascertain the necessary assessment rate and make recommendations in this regard. The funds to cover committee expenses should be obtained by levying assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by the administrative agency established under the order and requires that each order of this nature contain provisions requiring handlers to pay, pro rata, the necessary expenses.

As his pro rata share of such expenses, each person who first handles lettuce during a fiscal period should pay assessments to the committee at a rate fixed by the Secretary on all lettuce he so handles. In this way, each handler's total payments of assessments during a fiscal period would be proportional to the quantity of lettuce handled by such handler, and assessments would be levied on the same lettuce only once.

The rate of assessment should be established by the Secretary on the basis of the committee's recommendation, or other available information, so as to assure the imposition of such assessments as are consistent with the act. Such rate should be fixed on a unit basis, such as a carton.

Although handling of lettuce from the production area is a continuous 12-month operation, the period near the beginning of the marketing year will be one of extra activity, for the committee will be closing out one marketing year, auditing its account, preparing the annual report, surveying the crop and marketing situation, developing a marketing policy and holding meetings to develop recom-

mendations for regulations. This means that in all probability a large percentage of the committee's expenses will be incurred before income for the current fiscal period equals expenses.

In order to provide funds for the administration of this program during the fiscal period prior to the time sufficient assessment income becomes available during such period, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money to meet such deficiency.

The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing order programs and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation prior to the time when assessment collections are made in an appreciable amount. Revenue accruing to the committee from assessments later in the season would normally provide the means of repaying any loans.

Should it develop that assessment income during a fiscal period plus any funds in reserve would not, at the previously fixed rate, provide sufficient income to meet expenses, the funds to cover such expenses should be obtained by increasing the rate of assessment. Since the act requires that the administrative expenses shall be paid by handlers, this is the only source of income to meet such expenses. The increased assessment rate should be applied to all lettuce handled during the particular fiscal period, so that the total payments by each handler during each fiscal period will be proportional to his share of the total volume of lettuce handled by all handlers during that period.

Should the regulatory provisions of the order be suspended during any portion or all of a fiscal period, it will be necessary to obtain funds to cover expenses during such period unless funds in the reserve are sufficient for such purpose. Thus authorization should be provided to require the payment of assessments to meet any necessary expenses during such periods.

The assessment rates under the program would be set at the beginning of the season based on a crop of an estimated volume. However, lettuce in the production area is susceptible to damage from frosts, wind, hail, and other factors. Should crop failure or partial crop loss reduce the crop so that assessment income falls below expenses, it might be necessary for handlers to cover the deficit through increased assessments. Since this would impose an extra burden on the industry, it would be equitable and less burdensome for handlers to establish an operating reserve during years of normal production. The reserve fund would be built during years when funds exceed expenses. In order that reserve funds not be accumulated beyond a reasonable amount, however, a limit of not to exceed approximately one fiscal period's expenses should be provided.

Except as necessary to establish and maintain an operating reserve as set

forth in the order, handlers who have paid part of any excess should be entitled to a proportionate refund of any excess funds that remain at the end of a fiscal period.

Upon termination of the order, any funds in the reserve that are not used to defray the necessary expenses of liquidation should, to the extent practicable, be returned to the handlers from whom such funds were collected. However, should the order be terminated after many years of operation, the precise equities of handlers may be impractical to ascertain. Therefore, it would be desirable and necessary to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances.

Funds received by the committee from assessments should be used solely for the purpose of the order. The committee should as a matter of good business practice maintain up-to-date books and records clearly reflecting the operation of its affairs. It should provide the Secretary with periodic reports at appropriate times, such as at the end of each marketing year or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over the activities and operations.

The marketing order should provide authority for production research, market research, and market development. Such activity could contribute to greater efficiency in production and marketing, and stimulate sales and per capita consumption. Since the act contains no authority for paid advertising for lettuce, market development does not include paid advertising.

(d) The declared policy of the act is to establish and maintain such orderly marketing conditions for lettuce, among other commodities, as will tend to establish parity prices to growers and be in the public interest. The regulation of the handling of lettuce, as authorized in the order, provides a means for carrying out such policy.

In order to facilitate the operation of the program, the committee should toward the end of each marketing year, prepare and adopt a marketing policy for the ensuing marketing season. A report on such policy should be submitted to the Secretary and made available to producers and handlers. The policy so established would serve to inform the Secretary and persons in the industry, in advance of the production and marketing of the crop, of the committee's basic plans for regulations, including estimates of the respective total allocations of lettuce and producer allocations with respect thereto. Handlers and producers could then plan their individual operations in accordance therewith and thus reduce the overproduction that has plagued the industry in the past. The policy also should be useful to the committee and the Secretary when specific regulatory action is being considered, since it would provide basic information necessary to the evaluation of such regulation.

In order to develop a comprehensive and effective policy for regulating the handling of lettuce in any marketing year, it is necessary that all of the important economic factors having a bearing on the marketing of the crop be considered by the committee. Hence, the committee in preparing its marketing policy should give consideration to the supply and demand factors, as hereinafter set forth in the order, affecting marketing conditions for lettuce since consideration of such factors is essential to the development of an economically sound and practical marketing policy.

The marketing policy report should contain forecasts of the probable demand for lettuce during the applicable base quantity periods. The record shows that the committee should be able to make reasonably accurate estimates of demand since there are detailed USDA records of weekly shipments for many years which can be correlated with economic and other relevant data. Since the committee will also have a record of the total of base quantities for any given base quantity period throughout the year, by relating the aggregate base quantities to the estimated aggregate demand it should be able to determine fairly closely the allocation percentages needed for each such period.

Information regarding the trend and level of consumer income should also be included in the marketing policy report. Changes in consumer income, particularly disposable income, influence the demand and prices for lettuce and would need to be considered by the committee.

The committee should also give consideration to prospective production of lettuce and competing vegetables by time periods, both in the production area and in competing areas.

The marketing policy report should also contain information regarding any other factors such as U.S. population and export demand conditions which have a bearing upon the economic and price-making situation for lettuce.

Section 50 dealing with marketing policy should also include the total of base quantities during each base quantity period. This is an important factor which must be included in considering any allocation regulation. As the divisor, it is one of two numbers used to calculate the uniform percentage which, when applied to each producer's base quantity, results in his allocation.

These factors should provide adequate criteria to consider in developing a marketing policy statement and should be adopted.

If supply or demand conditions for lettuce change significantly the committee should have authority to revise the marketing policy statement when the situation warrants. A report of each revised marketing policy should be submitted to the Secretary and made available to producers and handlers by bulletins, or other appropriate media.

The order should provide for volume regulations as hereinafter discussed under which the volume of lettuce handled during any allocation period could

be limited to such quantity as may be expected to meet market requirements at fair returns to producers. The record evidence indicates that the order, as hereinafter set forth, would provide an effective method of so regulating the handling of lettuce.

In administration of the order, the committee is given direct responsibility for recommending to the Secretary the number of cartons of lettuce which should be marketed during an allocation period. To carry out such responsibilities effectively and equitably, and with due regard for the public interest, certain standards of operation and administration are prescribed in the marketing order. Such standards, which are deemed essential in the exercise of authority authorized by the act, relate to all the various elements which experienced lettuce producers take into consideration in planning and managing their production and marketing of production area lettuce.

Thus the order should provide that the committee should recommend to the Secretary whether regulation of lettuce is needed during a particular allocation period. The members of the committee would be representative of lettuce producers and handlers. Consequently, it is proper that the committee should be qualified to evaluate and recommend to the Secretary whether, and the extent that, the available supplies of lettuce are excessive in relation to demand and whether restriction on the quantity of lettuce which handlers may purchase from, or handle on behalf of, producers during such period is needed to improve producer returns.

Several exceptions stressed the need to delay issuance of the initial volume regulation to provide adequate time for handlers, producers and the committee to prepare for operations under the program. One contended that issuing such regulation in the middle of the season would be discriminatory, and therefore should not be effective prior to August 1, 1972, the beginning of the season or fiscal period. Others suggested a delay of at least 120 days—which is the approximate time period from lettuce planting to harvest. In order to provide equitable treatment of producers and handlers and to insure adequate time for preparations, these exceptions are granted and the order as hereinafter set forth requires that no volume regulation shall become effective before August 1, 1972, but in any event not until at least 120 days after the effective date of the order, if the order becomes effective.

"Base quantity" should mean the number of cartons of lettuce determined for a producer pursuant to § 53 for a base quantity period. "Base quantity period" should mean each of the 12 calendar months or other specified periods during the marketing year.

"Allocation" means the number of cartons of lettuce which during an allocation period a handler may purchase from or handle on behalf of a producer holding a base quantity. "Allocation period" should mean 1 week or a number of

consecutive weeks as established pursuant to § 54.

These four terms are used frequently in the order and should be defined to reduce the repetitive language that would otherwise be required.

The authority of the Secretary to limit the total quantity of lettuce to be purchased from, or handled on behalf of producers during an allocation period is granted by the act. Further, the terms and conditions of the order, as hereinafter set forth, are an appropriate means of exercising such authority. Such authority also applies to increasing such quantity previously established.

Whenever the total amount of lettuce which may be purchased from or handled on behalf of producers during any allocation period has been established by the Secretary, such total allocation should then be apportioned equitably among producers in accordance with methods and standards authorized by the act. The act authorizes more than one method of allotting the total amount of a commodity which handlers may market. Equitably allocating such total amount among producers based upon the amounts of lettuce sold by such producers in a representative prior period would best accomplish the declared policy of the act. A program based on producers' current availability of lettuce was rejected because it would stimulate lettuce plantings and thus magnify the problem of excessive production. Therefore an approach utilizing a representative base period should be adopted.

Several criteria were considered in arriving at the representative period. Use of recent years was considered imperative to reflect as nearly as possible the current status of the industry, including relative importance of areas and individual operations. At the same time, mandatory use of only one or two marketing years seemed to be disadvantageous or discriminatory to some districts and would have given excessive weight to extreme situations. On the other hand, if too many years were included, it might be difficult or impossible to obtain and verify accurate historical data on weekly lettuce sales, contracts, etc. It was originally proposed that a 5-year base period beginning the 1965-66 season would satisfy these requirements. According to the record adequate information was available for 1964-65 and inclusion of that season was necessary to provide equity among producers.

Exceptions were filed opposing the exclusion of the 1970-71 season's sales in determining base quantities. They contended that the options listed in the recommended decision favored producers with histories of "declining production" and that it would "seem only equitable to permit the use of the most recent year's production for these producers with expanded production." Further, they discounted the contention in the recommended decision that any substantial expansion could have occurred in the 1970-71 season as a result of the proposed marketing agreement and order described in the notice of hearing. That proposal, published in January

1971, did not state that credit would be given for lettuce produced and sold during the 1970-71 season. In view of this, it appears unlikely that harmful expansion of production would have been encouraged in anticipation of gaining an advantage in computation of base quantities. Also, it would be inequitable not to include any 1970-71 sales as part of the sales in the applicable representative period. Such sales could well tend to reflect the most recent trend in producers' lettuce sales and would also give recognition to the entry of new producers during the season in which the hearing was held. Such would also provide equity among producers. On the basis of these criteria and considerations it is concluded that the 1964-65 season through the 1970-71 season is a reasonable and proper initial representative period. Section 53 of the order should therefore read as hereinafter set forth.

The considerations involved in determining a producer's base quantities are particularly important to producers, singularly and jointly. Vagaries of weather and the market often result in producers selling less lettuce in some years than in others although approximately the same production facilities may have been utilized. These variations may affect some producers more than others in a particular season. Therefore, some flexibility should be provided producers in selecting seasons within the representative period for the purpose of base quantity computation so that the influence of unusual seasons can be minimized. The record shows that this would be in the best interest of all producers and would provide the best method of promoting and preserving equitable apportionment among them.

The mandatory use of all seasons or a specific combination of seasons in the representative period would not treat all producers equitably. Therefore, options should be provided which would allow each producer to minimize or eliminate the influence of an unrepresentative season or seasons. By allowing the various choices or combinations hereinafter specified in the order, individual inequities will tend to be moderated to an acceptable level. These options are found to be both practical and reasonable and are incidental to the other provisions of the order and necessary to effectuate such provisions and should be adopted.

The order should provide that any person who acquired the lettuce producing business of another producer may, in the determination of his initial base quantities, use the lettuce sales of the selling producer during the representative period. As a matter of equity, such acquiring producers should have the same opportunity as is available to other producers to select the historical sales options most favorable to them. In recent years, several large corporations have purchased such facilities as production equipment, leasehold interests, and office equipment of lettuce producing businesses in the production area and employed the people who operated the businesses for the selling producers in the same or similar capacities. Thus, even

though there was a change in producer entity, there was continuity in the lettuce producing businesses. In addition to purchase, a producer might acquire a lettuce producing business through inheritance, as a gift, in payment of debts, or in other ways. Regardless of the means whereby one becomes a lettuce producer, there should be written evidence of the transfer of the lettuce producing business.

Exceptions were filed recommending the elimination of the possibility of double counting of base histories of lettuce producing businesses acquired from producers. According to the record, a person who acquired such a business from a producer should be entitled to all of the base history referable to such producer's business in computing base quantities for such person. Conversely, the disposing producer should not be entitled to any of that base history. These exceptions are granted so as to make the foregoing considerations and requirements explicit in the order as hereinafter set forth.

For most purposes, 12 base quantity periods per year, based on calendar months, appear to best meet program requirements. However, the committee should have the right to recommend and the Secretary to determine modifications of this should conditions so warrant.

While 12 monthly base quantity periods would meet the needs of most producers, it is recognized that exclusive use of this approach might be inequitable for others whose sales within a month are heavily weighed within a particular part of such month. This occurrence most frequently reflects climatic conditions which influence each district's normal harvest season. A district may usually begin harvest in the last week of a calendar month or end harvest in the first week in another. The record also indicates that in some districts a harvest season may extend over only a few weeks in its entirety.

To require that a producer's base quantity be extended over a full month although earned on the basis of sales recorded within a shorter period might be inequitable to such producers in application of a uniform percentage during an allocation period since it could cause an artificial dilution of his historic sales record. To cite an extreme example, a producer's base quantity for a particular month may have been entirely earned during the final week of that month in prior seasons, and because of climatic conditions he may be unable to harvest earlier. Thus to assign this producer allocations during the first weeks of the month would require him to transfer such allocations to others, while in the final week of the month (his normal harvest period) he might be forced to acquire allocations from others by transfer in order to maintain his enterprise.

Such requirements might place an unreasonable burden on such a producer, and means should be provided to avert this. Therefore, at least 120 days prior to any particular base quantity period, each producer not wishing his base quantity for that period to be applied

throughout the period should be given the option of requesting the application of his base quantity on a proportional basis within such base quantity period. The producer exemplified above could request that his base quantity be applied entirely to the final week of the month; another producer faced with different circumstances could request 70 percent of his base quantity to be applied during the first week of the month and 30 percent in the second week. Procedures to provide for such proportional application of base quantities within a base quantity period should be recommended by the committee and approved by the Secretary.

This option would require more exact production and harvest timing than under the longer base quantity period, but flexibility would be provided by transfer authority.

The record indicates that some lettuce growers in the production area produced lettuce for several years prior to the 1967-68 season but because of adverse growing conditions or weather conditions (such as hail or freeze) in their producing regions since that time were unable to finish and market a lettuce crop during each of the subsequent seasons. In recognition of this circumstance caused by conditions beyond the lettuce grower's control where he made at least a bona fide effort to produce lettuce in any one or more of the marketing years 1967-68, 1968-69, 1969-70, 1970-71, provisions should be included in the order for such a lettuce grower to be considered as a producer for purposes of the establishment of base quantities for him pursuant to § 53(b)(1) during the initial season. The absence of such an effort by a lettuce grower during those marketing years should indicate that such person ceased being a lettuce producer and should, therefore, not be eligible for an initial base quantity under § 53 of the order. It would be inequitable and inappropriate to include any lettuce produced after the 1970-71 season and prior to issuance of any volume regulations under this proposed program in computing initial base quantities. To provide for such an inclusion would encourage harmful expansion and production of additional surplus to gain advantage over other producers in anticipation of this regulatory program.

Subsequent to the proposed program's inception, if a producer is granted a base quantity but does not make a bona fide effort during two consecutive seasons to produce and market lettuce thereunder, the committee should be empowered under rules and regulations recommended by the committee and approved by the Secretary, to declare such base quantity invalid and canceled at the end of the second season. This should enhance the committee's ability to evaluate potential production and should contribute to more efficient program operation. This provision should not be mandatory, however, in order that exceptions may be made to recognize extenuating circumstances.

Section 53(b)(2) provides for a moving or "rolling" base approach to annually adjust base quantities in order

to recognize trends in sales volume of individual operations. This provision should be included in the program to keep base quantities relative to actual sales in recent years and thus preclude excessive rigidity in the industry structure.

For producers with base quantities calculated by use of sales in less than five seasons, each season's sales should be weighted according to the formula in § 53(b)(2)(ii) with a weight of one fifth assigned to sales recorded in each subsequent season. In this manner, sales in subsequent seasons would have a uniform effect on each producer's base quantities, regardless of the number of seasons used in calculating his prior base quantities.

For producers with base quantities calculated on a five-season basis, subsequent base quantities in each base quantity period would be computed by (1) arraying all sales used in computing each existing base quantity, (2) dropping the sales in the earliest season included, (3) adding his sales in the most recent season during such period, and (4) dividing by 5. The resulting average(s) would be his new base quantity(ies).

In addition to annual adjustments made on the basis of prior sales, provisions should be included to permit annual additive adjustments in total base quantities which would recognize changes in the demand for lettuce. Such additive adjustments should reflect changes in U.S. population, per capita lettuce consumption, export demand and other factors which affect the aggregate demand for the commodity. For such additive adjustments, a maximum annual limit of 5 percent of the total base quantities of the previous season should be prescribed to insure year to year stability. Such adjustments should be issued to permit new producers to gain entry into the industry, and to allow established producers to expand.

The order should provide that the committee shall, with the approval of the Secretary, establish rules, standards, and procedures to be used in determining additive adjustments in base quantities to be recommended to the Secretary. Such specific criteria would help insure that additive adjustments would be fair and reasonable.

It should also be required that additive adjustments be divided equally among base quantity periods in each marketing season. There was testimony at the hearing against this requirement inasmuch as it would cause future inflation in a base quantity period which might already have an unusually high base quantity, while adding only the same amount to a relatively small total base quantity in another base quantity period. It was contended that the committee should have discretion to make assignments of additive base quantities in base quantity periods in which total base quantities were smallest in relation to market needs. However, the assignment of additive base quantities would not add quantity but would only affect the criteria for assigning allocations. Thus it would have no effect on quantities permitted to be handled. Furthermore, it would fail to

provide equity to applicants for additive base quantities or to established producers. Should the committee be permitted to assign additive base quantities in specific base quantity periods and to exclude other such periods, new growers climatically limited to producing in the excluded base quantity periods would be effectively barred from entry. Moreover, the relative importance of base quantities of established producers in the excluded periods would be unaffected. But for those periods in which the base was increased, growers would experience a decline in their share of the base.

New base quantities should be issued on a scale necessary for a minimum economic enterprise. Additive adjustments in base quantities issued to established producers should also recognize the need for a minimum economic enterprise and this consideration should be given priority in authorizing such adjustments. In making its recommendations, the committee should evaluate each application for such adjustments individually, considering the acreage range and crop rotation practices of the lettuce enterprises in the district involved, land, labor, and equipment available, experience of the applicant, other enterprises of the applicant, and such other factors as it may consider relevant. However, the Secretary should not be precluded from making annual additive adjustments in base quantities due to lack of applications or committee recommendations.

The proponents requested a postponement of such additive adjustments until the 1974-75 season. They contended that this provision would otherwise impose a substantial hardship on the initial committee struggling to become operational. Also final data on which adjustments would be based would ordinarily be issued about one year after the period covered. It appears the committee should be given additional time. However, making this provision effective in the 1973-74 season should provide adequate time for the committee preparations in this regard.

It was contended that the order would deny entry into lettuce growing to any new producer, would restrict expansion of acreage and would create a large monetary value for a base quantity. However, consideration has been given to these matters; and the program has been designed to give equitable treatment to producers consistent with program objectives. To the contrary, provision for entry of new producers is expressly provided in § 53(c) of the order as hereinafter set forth. Furthermore, it is required that any new base quantities be divided equally among all base quantity periods in the season, thus assuring that all applicants would have an equal opportunity for entry. Also, provision is made for the free transfer of base quantities thereby further affording new producers opportunity to achieve entry. No factual evidence was offered that the proposed program would create undue monetary value for base quantities and allotments thereunder. Safeguard against such an occurrence is, however, provided inasmuch as under

the order only the Secretary may establish the various allocation periods and the applicable total allocations. In addition, all base quantity applications and determinations with respect to the establishment of applicable base quantities will be subject to review by the Secretary. Also, the committee may establish only such rules, guides, bases, or standards, as are approved by the Secretary, to be used in determining base quantity awards or adjustments.

Administrative procedures required to establish volume limitations during any allocation period under the marketing order are (1) determination of a base quantity for each producer and total base quantities for all producers; (2) committee recommendations for and establishment by the Secretary of the total allocation of lettuce; (3) computation of a uniform percentage which the total allocation is of total base quantities and (4) application of such uniform percentage to each producer's base quantity to determine his allocation in cartons for the period.

Administration of the marketing order is facilitated by computation of the uniform percentage. This provides a readily available and easily understood expression of the ratio of total allocation to total base quantities in the form of a ratio or percentage figure applicable to each producer's enterprise. It provides each producer with an equitable apportionment of the total allocation under a uniform rule and his allocation becomes readily ascertainable by multiplying his base quantity by the uniform percentage. The resulting number of cartons thereby becomes his allocation.

A modified procedure to determine producer's allocations should be used when an allocation period falls within two base quantity periods. Under such circumstances, the total allocation should be divided in proportion to the number of days of the allocation period in each of the base quantity periods, and the resulting computed allocations then divided by the applicable total base quantities to compute uniform percentages. Thus, for such an allocation period, the allocation for a producer holding a base quantity should be established by multiplying his base quantity referable to one of the base quantity periods by the applicable computed uniform percentage and adding the product to that derived by multiplying the producer's base quantity referable to the other base quantity period by the applicable computed uniform percentage. It would be unreasonably restrictive to require that the portion of a producer's allocation computed on the basis of a particular uniform percentage be used only in those days of the allocation period within the applicable base quantity period. Therefore, handlers should be permitted to purchase lettuce from a producer or handle lettuce on his behalf throughout the entire allocation period. However, for purposes of determining future base quantities of the producer, any sales by, or on behalf of, the producer during such an allocation period should be prorated to the separate base quantity periods in the same ratio

as used in computing the respective components of the producer's allocation, so that the relationship of base quantities to particular base quantity periods continues essentially the same notwithstanding an allocation period which overlaps base quantity periods.

An adaptation of the uniform percentage would be required to apply to base quantities of producers who request proportional application of their base quantities within base quantity periods. Procedures to provide equity in such cases should be established through rules issued by the committee.

As each handler is the one who is putting lettuce in channels of commerce within the production area or between the production area and any point outside thereof, the responsibility for and burden of compliance should be on handlers.

The requirement that no handler may purchase from, or handle on behalf of a producer, lettuce unless it is within the allocation of a producer who has a base quantity provides an appropriate, administratively feasible, and effective method for allotting the amount of lettuce which handlers may purchase from or handle on behalf of any or all producers thereof.

To assist in the administration and effective enforcement of the marketing order each producer who is given an allocation should determine which handler or handlers will handle all or portions of his marketable lettuce. The requirement that each such producer shall notify the committee of the handler or handlers who will handle such lettuce and that the committee advise such handlers of the applicable quantities involved is both a necessary and a reasonable administrative requirement.

If and when marketing conditions arise which make it appropriate that the total allocation should exceed the total base quantities, it is proper that the resulting uniform percentage may be applied to each producer's allocation even though it may be more than 100 percent of his base quantity. This would tend to discourage indiscriminate overplanting by individual producers hoping that no allocation might be set but who collectively may cause the opposite effect.

Just as land, equipment, or other factors involved in producing lettuce may be shifted by loan, sale, inheritance, or in any other manner, provisions should be included in the order for transferring base quantities or allocations, in whole or in part, to other producers along the same general lines. Except as hereinafter discussed, transfers of base quantities should be made at least 4 months prior to the applicable base quantity period to be effective for such period to allow adequate time for planning and allocating the needed production resources.

Transfer of allocations, however, should be permitted at any time so that the market will tend to be provided to the extent practicable with a total allocation comprised of the best quality available. Since lettuce production is not a process which can be precisely adjusted

during a growing season to meet needs, it is unlikely that producers will always be able to precisely balance their supplies of lettuce ready for harvest and their allocations. Some producers may have too much and others too little. By transferring allocations, producers should be able to greatly improve the balance of supplies and allocations. With respect to the sales of lettuce covered by a transferred allocation, credit therefor in future base quantity computations for the producers involved in the transfer should be in behalf of the transferor unless otherwise provided in the written agreement between the producers, a copy of which should be delivered to the committee. Details of all transfers should be confirmed to the committee by both parties thereto within 48 hours after the agreement so that the committee will be informed reasonably promptly of the producers and handlers who are relying on transferred allocations for their lettuce and accurate and proper program records can be maintained.

Exception was taken that the committee or the Secretary should maintain control and supervision of transfers. The contention was that without supervision, such producers would, at their own option, be able to transfer lettuce operations to different acreages. However, this problem can arise without the existence of an order; and the order should not concern itself with these matters. Unlike the price support programs which are issued under different legislation and which involve acreage control and acreage allotments assigned to the farm, based on the farm history, the Agricultural Marketing Agreement Act of 1937, as amended, expressly provides for apportioning the total quantity to be purchased or handled during a specific period among producers, based on sales by producers in a prior period, without reference to the particular acreage where the commodity was grown. Thus, a producer is entitled to, receives, and retains, consistent with the method of allotting set forth in the order, a base quantity. Just as the base quantity provisions of the order do not directly regulate lettuce production or confine it to any particular parcel of land, neither should the transfer provisions. Consistent with the provisions of the order, the base quantity is his. Hence, he should be able to use it on locations of his choosing or to dispose of it to another producer. Neither the committee nor the Secretary should interfere with such actions, but knowledge sufficient to permit operation of the program should be obtained. As to the issue of denying a transfer until the committee and the Secretary are satisfied that no party or parties having an interest in the lettuce crop, machinery, buildings, or land will be injured by such transfer, such would place upon them responsibilities which they may find impossible to discharge. Here, too, the order should not concern itself with these matters. Accordingly, the exception is denied.

The committee should set up means to act as a clearinghouse of information

so that it may assist producers and handlers in locating and identifying any unused allocations and lettuce in excess of allocations so that the total allocation, insofar as practical, is handled.

The proponents proposed two modifications of § 55 of the proposal in the notice of hearing which should be adopted. First, that new base quantities or adjustments to base quantities pursuant to § 53(c) should be prohibited from being transferred for at least 2 years. This requirement should tend to minimize applications from persons who have little desire to actually grow lettuce for market to the extent permitted by the new base quantities or adjustments and inhibit applicants applying for base quantities with the sole intent of selling such base quantities to others. Also, the order should provide for rules by which the committee may facilitate pooling of allocations of producers dealing with a common handler. As discussed heretofore, by transferring allocations producers should be able to improve the balance of supplies and allocations. Authority to overship or compensate for shortages, as in §§ 56 and 57, provides additional flexibility. On occasion, however, allocations of producers may go unused. In such an event, a pooling arrangement where each producer would receive credit in proportion to his share of the total allocation would benefit producers for purposes of base quantity history. The proponents used the example of producers A, B, and C, each with 100 units of allocation and each in a separate joint venture with the same handler. However, producer A had a supply of 150 units of preferred lettuce, B had only 25, which were not desirable for market; and C had 75 desirable units. If efforts to transfer unneeded allocations were unsuccessful and the market demanded only the better quality lettuce, the handler might elect to harvest and market all of the lettuce of producers A and C, but none of B's for a total sale of 225 units. With a previously agreed upon pooling arrangement, producers A, B, and C would share equally in the credit of 225 units, or 75 each. Without such a feature, producer B would have gotten no credit for future base quantity history and producer A's lettuce would not have been harvested in an amount more than 100 units and would not have received the remuneration for the additional 50 units harvested.

A pooling arrangement would provide producers insurance of equal treatment, during periods of unusual market conditions, and would contribute to the shipment of the best quality lettuce available. Therefore, to provide benefits to producers and promote efficiency of handlers' operations, while providing the consumer with the best quality lettuce available, authority should be provided for such pooling of allocations, with the provisions of such pooling agreements at the discretion of the parties involved.

Some flexibility in addition to transfer authority is essential for reasonable operation of the proposed allocation program. Otherwise, transfers would have to be made to accommodate minute devia-

tions of available supplies from assigned allocations. Harvesting might have to stop in the middle of a row, or a railroad car might have to be one carton short of a carload qualifying for a lower freight rate. At times, weather limitations or other conditions may cause a producer's allocation to be unfilled and he may find it impractical or otherwise undesirable to acquire lettuce to make up for such deficit. Therefore, there is a need for including authority for overages and shortages as hereinafter specified in §§ 56 and 57.

While it is necessary to provide a means to maintain efficiency in lettuce harvesting and to permit short run distortions of harvest patterns to be averaged out, the quantities permitted to be handled under this provision should be limited in order to avoid defeat of the general program objectives. Accordingly, the order should provide that handlers may in the aggregate purchase from or handle on behalf of a producer an additional quantity of lettuce not exceeding 10 percent of the producer's allocation pursuant to § 54, with the proviso that the quantity of lettuce so handled be deducted from the producer's allocation for the next allocation period. Conversely, if during an allocation period handlers do not purchase from or handle on behalf of a producer the total quantity of lettuce representing the allocation established for the producer less required deductions due to prior overshipments, then a volume not to exceed 25 percent of the producer's allocation for such period may be purchased from or handled on behalf of such producer in excess of such producer's allocation in the next allocation period. The evidence of record shows that a maximum overage of 10 percent and compensating adjustments for shortages of up to 25 percent would be adequate to provide for short term flexibility. However, the order should permit the Secretary, on the basis of a committee recommendation, to determine any other percentage that would be more appropriate so as to accommodate operations to the then current needs therefor. The producers should designate the handler or handlers who are to handle such additional quantities and notify the committee thereof. The committee would then be in a position to apprise the relevant handlers of their respective quantities, the same as with respect to quantities of lettuce that may be handled within a producer's allocation. This will assure a means of checking compliance; also, the committee will know how much lettuce is involved and who is authorized to handle the additional quantities.

In connection with the application of the total quantity of lettuce handled during an allocation period to the allocation established for a producer, if the total quantity of a producer's harvested lettuce handled during such an allocation period is in an amount less than that covered by the allocation and allocations obtained by transfer, the quantity handled should be applied first proportionately to the established allocation less any required reduction due to a prior overage, and to

any allocations received by transfer but with credit for sales retained by the transferor. The remaining quantity handled should be applied in order as follows: (1) To the authorized compensation for a prior shortage and (2) the remainder to any allocation transferred to him on which he obtains credit for future base quantities. This requirement is necessary to insure equitable treatment to producers who transfer allocations and retain credit for any sales pursuant thereto, and to avoid pyramiding. If during an allocation period the quantity of a producer's lettuce handled were first applied to any additional quantity authorized to be handled (whether because of a previous shortage, or a transfer, or otherwise) and the total quantity handled failed to exhaust the total quantity permitted to be handled, the unused portions based on available allocations could then be pyramided for all producers and handled in a subsequent allocation period in an amount greatly in excess of the total allocation for such period, thereby tending to diminish the effectiveness of the program.

At times within a marketing year, a producer might not have an allocation needed in order to compensate for an overage that took place in the preceding allocation period. This could occur because he did not have a base quantity during subsequent base quantity periods of that marketing year, allocation regulations might not be issued in the remainder of the marketing year, or for other reasons. The purpose of the overage and shortage authorities is to provide weekly flexibility with respect to operations during a marketing year.

Requiring compensating adjustments during the following marketing year would not meet such an objective, but would instead result in substantial administrative problems for the committee in determining base quantities, and in evaluating allocation requirements. Under such circumstances, the producer should not be obligated to make a compensating adjustment the following marketing year. However, for purposes of determining future base quantities, a producer's sales should be reduced by the amount of overages incurred but not repaid. This would be fair and equitable to producers generally and tend to minimize advantages a producer may have derived from overages for which compensatory adjustments are not made.

The proponents recommended deleting authority for the "Other Regulations" listed in the notice of hearing, except to fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, or shipment of lettuce. It is important that the order provide authority for such regulations to assure standardized containers and packs of such containers to establish a uniform basis for trading. The committee should have authority to recommend the elimination of any containers which introduce an element of competition that adversely affects prices or tends to disrupt orderly marketing conditions for lettuce. Standardization of containers

to those most suitable for the packing, transportation, or shipment of lettuce, and prescribing the use of containers of sizes and capacities which can readily be distinguished from each other would tend to establish more orderly marketing conditions and increase returns to producers.

However, the exercise of this authority should not be used to close the door on experimenting with new containers more suitable for lettuce, or ones needed due to changes in marketing practices, or to preclude commercial development of new containers of different sizes, weights, dimensions, and capacities.

The order should contain authority for establishing and prescribing such pack specifications for lettuce as would be desirable for the marketing of, and reflect favorably on, production area lettuce so as to tend to improve returns to producers, increase the demand for such lettuce, and otherwise effectuate the declared policy of the act.

Provisions should be included in the order to permit certain shipments such as donation to relief or charitable institutions, and experimental shipments, to be exempt from regulation if they meet the rules and safeguards prescribed by the Secretary upon recommendation of the committee to assure the exempted shipments do not enter regulated channels of trade contrary thereto.

According to the record the committee needs authority to recommend the establishment of rules and regulations to exempt the handling of small quantities of lettuce from regulations or assessments, or both. This should be provided to eliminate expending committee time, effort and expense needed for record keeping and compliance checking far out of proportion to the benefits that such insignificant quantities of lettuce might have on improved returns to producers or assessments.

(e) The committee should have such information and data as may be needed for the performance of its functions under the order including but not limited to those necessary to establish base quantities, allocations, modifications thereof, and to verify compliance with regulations. The industry has routinely maintained such information and has it in its possession and readily available, and the requirement that such information be furnished to the committee in the form of reports would not constitute an undue burden. It is difficult to anticipate every type of report or kind of information which the committee may find necessary in the conduct of its operations under the order. One report that should be submitted each week by each handler is the quantity of lettuce the handler purchased from producers and the quantity of lettuce handled on behalf of each and all producers. Therefore, the committee should have the authority to require, with approval of the Secretary, reports and information from handlers, as needed, of the type set forth in the order, and at such times and in such manner as may be necessary.

All reports and records furnished or submitted pursuant to the order to the

committee should be treated as confidential and be disclosed to no person other than the Secretary and persons authorized by the Secretary. Under certain circumstances, release of information compiled from handlers' reports may be helpful to the committee and the industry generally. However, such reported information should not be released other than on a composite basis, and such releases should not disclose information concerning individual operations. Such prohibition is necessary to prevent the disclosure of information that may affect detrimentally the business operations of the persons who furnished the reports. However, since the operation of this allocation program is inextricably involved with individual producers' base quantities and allocations, this information should not be treated as confidential.

Since it is possible that a question could arise with respect to compliance, it would be appropriate to provide in the order that handlers be required to maintain for each marketing year complete records on their receipts, handling, and disposition of lettuce. Such records should be retained for not less than 2 years after the termination of the marketing year in which the transaction occurred, so that, if needed in connection with enforcement, or other necessary purposes under the order, the requisite records will be available for that purpose. Such a 2-year period should afford an adequate and reasonable time for access thereto and should not impose an unreasonable or burdensome obligation on handlers inasmuch as such records are generally retained for similar time for purposes of business operations.

The successful operation of a program of this type depends upon the degree of compliance with its provisions. In this connection, it is necessary that the committee's designees for the purpose be given the same authority that the Secretary has to examine and verify records and ascertain the quantity of lettuce handled. The verification of records and reports and the inspection needed in connection therewith should be performed during reasonable working hours and in such manner that normal operations would not be interrupted.

(f) No handler should be permitted to handle lettuce, the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle lettuce except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(g) The provisions of §§ ---.86 through ---.96, as hereinafter set forth, are generally similar to those which are included in marketing agreements and orders now operating.

Such provisions, identified by section numbers and heading, as follows: § ---.86 *Right of the Secretary*; § ---.87 *Effective*

time; § ---.88 *Termination*; § ---.89 *Proceedings after termination*; § ---.90 *Effect of termination or amendments*; § ---.91 *Duration of immunities*; § ---.92 *Agents*; § ---.93 *Derogation*; § ---.94 *Personal liability*; § ---.95 *Separability* and § ---.96 *Amendments* are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the order and to effectuate the declared policy of the act. The hearing record supports the inclusion of each such provision in the order.

The record shows that the order should provide for the periodic presentation to the Secretary through referenda of the views of producers covering the future continuation of the order. Such a provision should be in addition to the one set forth in the act, requiring the termination of the order whenever a majority of the producers favor termination. A referendum every fifth year the order is in effect is reasonable. This should provide the opportunity for producers to express themselves as to whether or not the regulatory program should continue in effect. Five years of operations under the order should provide a sufficient amount of time for producers to evaluate the worth of the program. If the results of a referendum show that more than 50 percent of the producers by number, and volume of production, favor termination of the order, the Secretary should consider termination of the order. If such a number of the producers favor termination, it seems reasonable that the program is not measuring up to expectations. Under such circumstances continuation of the program would be precluded under the act. Therefore, the Secretary should terminate the program in accordance with the act. However, such action should be taken so as to become effective at the end of the then current marketing year provided the proposed termination is announced by June 30 of that year so as to afford producers and handlers reasonable opportunity to arrange for their future operations accordingly.

One exceptor urged that the order require that a referendum be conducted every 3 years after its effective date to ascertain whether continuation of the program is favored by producers. Such a requirement is unnecessary in that provision is made in the order hereinafter set forth for a mandatory referendum every fifth year, and that, further, the Secretary is directed by the statute and the order to terminate the provisions of the order at the end of any marketing year whenever he finds that such termination is favored by the requisite majority of producers. Moreover, he is not precluded from conducting a referendum at any time in order to arrive at a finding with respect to termination or continuation of the order.

Those provisions which are applicable to the proposed marketing agreement only, identified by section number and heading, are as follows: § ---.97 *Counterparts*; § ---.98 *Additional parties*; and § ---.99 *Order with marketing agreement*. Such provisions are also included in marketing agreements now in effect

and the record supports inclusion of such provisions in the marketing agreement.

Rulings on briefs of interested parties. At the conclusion of the hearing the Presiding Officer fixed April 26, 1971, as the deadline for interested parties to file briefs with respect to the evidence adduced at the hearing and the findings and conclusions to be drawn therefrom. It was later extended to May 3, 1971.

Briefs were filed by the following: Ernest J. Holcomb on behalf of the Western States Lettuce Producers Committee; Stuart H. Russell, Esq., on behalf of the New Mexico Lettuce Growers Committee; William H. Carder, Esq., on behalf of the United Farm Workers Organizing Committee, AFL-CIO; Charles F. Wheatley, Jr., Esq., on behalf of Mr. Thomas M. Bunn; Bruce Parr, on behalf of the Texas Vegetable Marketing Association; and Marshall H. Davis for Mel Finerman Co., Inc. Letters received from the following were also considered with the briefs: William J. Williams for the Irvine Co.; H. S. Raymond for the J. G. Boswell Co.; Nish Noroian for the Nish Noroian Farms; and Bill V. Kontilis for the Pacific Lettuce Co.; Adrian Ogaz; Miss Josephine M. Bunn; Thomas M. Bunn for General Farm Investment Co.; and Allan Grant for the California Farm Bureau Federation.

Every point in the briefs and letters was carefully considered along with record evidence in making the findings and reaching the conclusions herein set forth. To the extent that the findings and conclusions proposed in the briefs and letters are inconsistent with findings and conclusions contained herein, requests to make such findings or to reach such conclusions are denied on the basis of facts found and stated in connection with this recommended decision.

One of the briefs filed objected to the conduct of the hearing in that, "When counsel for UFWOC attempted to introduce farm worker testimony on this point, however, they were first denied an interpreter by the hearing officer; participation in the hearing by Spanish-speaking persons was thus precluded. Moreover, the hearing officer subsequently ruled during the cross-examination of proponent witness William B. Witner (See testimony on March 4, 1971) that such testimony was irrelevant 'under the Act' and thus inadmissible."

The applicable rules of practice governing conduct of the hearing do not provide that interpreters be furnished by the Department of Agriculture. However, statements in Spanish made by a witness were interpreted into English by counsel for the witness and entered as such in the record. No exception or objection was made to the portion of the hearing record containing the statements as so interpreted by counsel. Regarding the alleged ruling that certain testimony was "irrelevant 'under the act' and thus inadmissible," the record contains no ruling, nor any objection, with respect thereto. As provided in said rules of practice, only objections before the presiding officer may subsequently be relied upon in the proceeding. In the absence of any such objections and ruling in the hearing rec-

ord for review and consideration, the appeal is denied.

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

(1) The marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said marketing agreement and order regulate the handling of lettuce grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of lettuce grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of lettuce grown in the production area, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Order Regulating the Handling of Lettuce Grown in California, Arizona, Colorado, New Mexico, and a Designated Part of Texas," and "Marketing Agreement Regulating the Handling of Lettuce Grown in California, Arizona, Colorado, New Mexico, and a Designated Part of Texas," which have been decided upon as the appropriate and detailed means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirement of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among the producers who, during the period August 1, 1970, through July 31, 1971 (which period is hereby determined to be a representative period for the purpose of such referendum), have been engaged, in the production area, in the production for market of lettuce to determine whether such producers approve or favor the issuance of the said annexed order regulating the handling of lettuce grown in California, Arizona, Colorado, New Mexico, and a designated part of Texas.

Warren C. Noland and James B. Wendland of the Fruit and Vegetable Division, Consumer and Marketing Service,

U.S. Department of Agriculture, are hereby designated referendum agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Order for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.), as hereinafter modified for purposes of such referendum.

In § 900.401 paragraphs (g) and (h) are modified to read as follows:

(g) "Person" means any individual, partnership, corporation, association, or other business unit. For the purpose of the definition, the term "partnership" includes a husband and wife who have title to, or leasehold interest in, land as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property.

(h) "Producer" means any person engaged in a proprietary capacity in the production of lettuce for market who: (1) Owns and farms land, resulting in his ownership of the commodity produced thereon; (2) rents and farms land, resulting in his ownership of all or a portion of the commodity produced thereon; (3) owns land which he does not farm and, as rental for such land, obtains the ownership of a portion of the commodity produced thereon: *Provided*, That in the case of so-called joint venture agreements, wherein the parties to the agreement contribute resources to a single endeavor to produce and market a crop of lettuce and each party in such joint venture shares in the production risks and ownership of such lettuce, each such party shall be deemed a producer in his own right to the extent of such ownership as specified in the agreement. Ownership of, or leasehold interest in, land and the acquisition, in any manner other than as hereinbefore set forth, of legal title to the commodity grown thereon shall not be deemed to result in such owners or lessees becoming producers.

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed order.

A copy of the annexed order and of the aforesaid referendum procedure, as modified herein, may be examined in the following offices of the Fruit and Vegetable Division of C&MS: Warren C. Noland, Room 1733, 312 North Spring Street, Los Angeles, CA 90012; David B. Fitz, 2217 North 10th Street, McAllen, TX 78501; and Robert B. Case, Room 365, U.S. Customhouse, 721 19th Street, Denver, CO 80202; or James B. Wendland, Room 2552, South Building, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, DC 20250.

Ballots to be cast in the referendum and other necessary forms and instructions may be obtained from any referendum agent or appointee.

It is hereby ordered, That this entire decision and referendum order, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The

regulatory provisions of the said marketing agreement are identical with those contained in the annexed order which will be published with this decision.

Dated: January 25, 1972.

RICHARD E. LYNG,
Assistant Secretary.

Order¹ Regulating the Handling of Lettuce Grown in California, Arizona, Colorado, New Mexico, and a Designated Part of Texas

MINIMUM QUANTITY EXEMPTION

Sec.	
---75	Minimum quantity exemption.
	REPORTS
---80	Weekly report.
---81	Manifest report.
---82	Other reports.
---83	Handler records.
---84	Verification of reports and records.
---85	Compliance.
---86	Right of the Secretary.
---87	Effective time.
---88	Termination.
---89	Proceedings after termination.
---90	Effect of termination or amendments.
---91	Duration of immunities.
---92	Agents.
---93	Derogation.
---94	Personal liability.
---95	Separability.
---96	Amendments.

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

§ ---.0 Findings and determinations.

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900), a public hearing was held at Los Angeles, Calif., March 2-6, 1971, and continued at Albuquerque, N. Mex., March 10-12, 1971, on a proposed marketing agreement and order regulating the handling of lettuce grown in California, Arizona, Colorado, New Mexico, and a designated part of Texas.

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

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order regulates the handling of lettuce grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of lettuce grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of lettuce grown in the production area, as defined in said order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is therefore ordered, That on and after the effective date hereof, all handling of lettuce produced in the production area shall be in conformity to and in compliance with the terms and

conditions of the order which are as follows:

The provisions of the proposed marketing agreement and order contained in the recommended decision published in the FEDERAL REGISTER on August 4, 1971 (36 F.R. 14316, 16517) shall be and are the terms and provisions of this order and are set forth in full herein with correction of inadvertent, grammatical, or obvious errors and the following modifications:

1. Section ---.4 and District No. 10 in § ---.20(b) (1) are revised.

2. Section ---.8 is revised.

3. In § ---.22 paragraph (f) is revised.

4. In § ---.52 a new paragraph (d) is added.

5. In § ---.53 paragraphs (a), (b) (1) and (2) are revised, subparagraph (3) is renumbered (4) and a new subparagraph (3) is added. In paragraph (c), (4) is renumbered (d), (5) is revised and renumbered (4), (6) is renumbered (5), and (d) is renumbered (e).

6. In § ---.64 paragraph (b) is revised, paragraph (c) is renumbered (d) and a new paragraph (c) is added.

DEFINITIONS

§ ---.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may be hereafter delegated, to act in his stead.

§ ---.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ ---.3 Person.

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

§ ---.4 Production area.

"Production area" means the States of California, Arizona, Colorado, and New Mexico and all parts of the State of Texas except: (a) those counties intersected by U.S. Highway 90 between the cities of Orange and Del Rio and all counties south thereof, (b) all area south of U.S. Highway 90 between the cities of Del Rio and Van Horn, and (c) all area south of a line due west from Van Horn.

§ ---.5 Lettuce.

"Lettuce" means all varieties of *Lactuca sativa*, commonly known as iceberg type head lettuce, grown within the production area.

§ ---.6 Handler.

"Handler" means any person (except a common or contract carrier transporting, or crews harvesting, lettuce owned by another person) who handles lettuce on behalf of a producer or on his own behalf.

Sec. ---.0 Findings and determinations.

DEFINITIONS

---1	Secretary.
---2	Act.
---3	Person.
---4	Production area.
---5	Lettuce.
---6	Handler.
---7	Handle.
---8	Producer.
---9	Registered producer.
---10	Pack.
---11	Carton.
---12	Committee.
---13	Marketing year, season, or fiscal period.
---14	Base quantity; base quantity period.
---15	Allocation; allocation period.
---16	District.

COMMITTEE

---20	Establishment and membership.
---21	Term of office.
---22	Nominations.
---23	Selection.
---24	Failure to nominate.
---25	Acceptance.
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---27	Alternate members.
---28	Procedure.
---29	Expenses.
---30	Powers.
---31	Duties.
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---40	Expenses.
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---48	Research and development.
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---50	Marketing policy.
---51	Recommendation for volume regulation.
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OTHER REGULATIONS

---61	Recommendations for regulation.
---62	Issuance of regulations.
---63	Modification, suspension, or termination of regulations.
---64	Special purpose shipments.

¹This 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.

§ ----7 Handle.

"Handle" means to harvest lettuce or to package, sell, ship, or transport harvested lettuce or in any other way to place harvested lettuce in the current of the commerce within the production area or between the production area and any point outside thereof.

§ ----8 Producer.

"Producer" means any person engaged in a proprietary capacity in the production of lettuce for market: *Provided*, That in the case of so-called joint venture agreements wherein the parties to the agreement contribute resources to a single endeavor to produce and market a crop of lettuce and each party in such joint venture shares in the production risks and ownership of such lettuce, each such party shall be deemed a producer in his own right to the extent of such ownership as specified in the agreement.

§ ----9 Registered producer.

"Registered producer" means any producer who is registered with the committee pursuant to § ----53.

§ ----10 Pack.

"Pack" means a quantity of harvested lettuce in any specified container and which falls within specific weight limits, numerical limits, or size limits, or any combination of these, prescribed by the Secretary upon recommendation of the committee.

§ ----11 Carton.

"Carton" means the standard container No. 45B as described in section 43607 of the Agricultural Code of California, as amended, or the equivalent thereof or any other container prescribed by the Secretary upon recommendation of the committee.

§ ----12 Committee.

"Committee" means the Western States Lettuce Administrative Committee established pursuant to § ----20.

§ ----13 Marketing year, season or fiscal period.

"Marketing year," "season" or "fiscal period" means the period from August 1 to the following July 31, both dates inclusive, or such other 12-month period recommended by the committee and approved by the Secretary: *Provided*, That in connection with such a change the period of the then current or an adjoining fiscal period may be shortened or extended to accord therewith, and the initial period shall begin on the effective date of this part and end on the following July 31.

§ ----14 Base quantity; base quantity period.

"Base quantity" means the number of cartons of harvested lettuce determined for a producer by the committee pursuant to § ----53 for a base quantity period. "Base quantity period" means each of the 12 calendar months, or other period during the marketing year prescribed by the Secretary upon recommendation of the committee.

§ ----15 Allocation; allocation period.

"Allocation" means the number of cartons of harvested lettuce which during an allocation period may be purchased from, or handled on behalf of, a producer based on a producer's base quantity. "Allocation period" means 1 week or a number of consecutive weeks as established pursuant to § ----54.

§ ----16 District.

"District" means each of the applicable districts specified in, or pursuant to, § ----20.

COMMITTEE

§ ----20 Establishment and membership.

(a) There is hereby established a Western States Lettuce Administrative Committee consisting of 18 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate.

(b) Fifteen of the members and their respective alternates shall be individuals who are producers or officers or employees of corporate producers and are hereinafter referred to as "producer members." Three of the members shall be individuals who are handlers, or officers or employees of handlers and are hereinafter referred to as "handler members." An individual who is both a producer and a handler is not precluded from being nominated and appointed as a producer member or handler member.

(1) Nominations for and selections of, producer members and their alternates shall be in such numbers and in such districts as follows:

District No. 1. Santa Barbara and San Luis Obispo Counties in the State of California—one member;

District No. 2. Ventura, Los Angeles, and Orange Counties and that part of San Diego County west of a north-south line through the present post office in the city of Julian in the State of California—one member;

District No. 3. Imperial County (excluding that part of the Palo Verde Irrigation District located therein) and that part of San Diego County not located in District No. 2 in the State of California—two members;

District No. 4. Riverside, San Bernardino, Inyo, and Mono Counties and that part of the Palo Verde Irrigation District located in Imperial County in the State of California—one member;

District No. 5. Monterey, San Benito, Santa Clara, Santa Cruz, San Mateo, Alameda, Contra Costa, Marin, Napa, Sonoma, Mendocino, Humboldt, and Del Norte Counties in the State of California—three members;

District No. 6. All other counties in the State of California—one member;

District No. 7. Yuma County in the State of Arizona—one member;

District No. 8. All other counties in the State of Arizona—two members;

District No. 9. The State of New Mexico and El Paso County in the State of Texas—one member;

District No. 10. That part of the production area in the State of Texas not included in District No. 9—one member; and

District No. 11. The State of Colorado—one member.

(2) The three handler members and their alternates shall be selected from

the production area at large and each shall have handled lettuce during each of the 12 months of the preceding season.

(c) The committee may recommend, and pursuant thereto, the Secretary may approve, the reapportionment of members among districts, and the reestablishment of districts within the production area. With respect to any such changes, the committee and the Secretary shall give consideration to: (1) Shifts in lettuce acreage and production within the districts and within the production area during recent years; (2) the importance of new production in its relation to existing districts; (3) the equitable relationship of committee membership and districts; (4) economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and (5) other relevant factors.

§ ----21 Term of office.

(a) The initial term of office for members and alternates shall be the initial fiscal period and each subsequent term shall be for a fiscal period, except as otherwise specified by the Secretary pursuant to the committee's recommendation.

(b) Each member and each alternate shall serve in such capacity during the term of office for which he is selected and has qualified and until his successor is selected and has qualified.

§ ----22 Nominations.

Nominations for committee members and their alternates shall be made in the following manner:

(a) A meeting of producers shall be held in each district to nominate producer members and alternates of the committee in such numbers and districts as provided in § ----20. The committee shall hold or cause to be held such meetings prior to May 15 of each year, or by such other date as may be specified by the Secretary.

(b) At each such meeting the eligibility of the nominees for producer member positions and of the producers voting for nominees shall be recorded for the purpose of determining participation.

(c) Each producer shall be entitled to cast only one vote for each producer member position in each district in which the producer's lettuce was or is being grown in the then current season.

(d) The committee shall, prior to May 15 of each year, submit to each handler, a list of persons affiliated with and designated by handlers who are qualified to serve as a handler member in accordance with § ----20(b) and ask that they nominate at least three members and three alternates from such list to represent them.

(e) The names of nominees shall be supplied to the Secretary in such manner and form as he may prescribe not later than June 15 of each year, or by such other date as may be specified by the Secretary.

(f) Nominations for each of the initial member and alternate member positions of the committee may be submitted

to the Secretary individually by producers and handlers. Such nominations may be made by means of a meeting or meetings of handlers, and a meeting or meetings of producers concerned in each district. In the event such nominations for the initial members are not so submitted, the Secretary may select the initial members and alternates without regard to nominations, but selection shall be on the basis of the representation provided for in § ----20.

§ ----23 Selection.

The Secretary shall select all members and their alternates on the basis of representation provided for in § ----20 from the nominations made pursuant to § ----22, except with respect to the initial members and alternates, or from other eligible persons.

§ ----24 Failure to nominate.

If recommendations are not made within the time and manner prescribed in § ----22, the Secretary may, without regard to nominations, select the members and alternates of the committee on the basis of the representation provided for in § ----20.

§ ----25 Acceptance.

Any person selected by the Secretary as a member or alternate member of the committee shall prior to serving as such qualify by filing a written acceptance with the Secretary within the time specified by the Secretary.

§ ----26 Vacancies.

To fill committee vacancies, the Secretary may select members or alternates from nominees on the latest nomination reports or from nominations made in the manner specified in § ----22 or from other eligible persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, but such selection shall be made on the basis of representation provided for in § ----20.

§ ----27 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate during such member's absence or when designated to do so by the member for whom he is an alternate. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ ----28 Procedure.

(a) Other than to recommend volume regulation and actions relating thereto, ten members (including alternates acting as members) of the committee shall be necessary to constitute a quorum and ten concurring votes shall be required to pass any motion or approve any committee ac-

tion. At assembled meetings all votes shall be cast in person. To recommend volume regulation for an allocation period and actions related thereto, those eligible to vote shall be all handler members (including alternates acting as such members) and those producer members (including alternates acting as such members) representing producers for whom allocations are to be established for such allocation period. *Provided:* That both the quorum and the number of concurring votes in voting on volume regulations and related matters shall be a majority of those eligible to vote.

(b) The committee may meet by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing.

§ ----29 Expenses.

Members and alternates of the committee shall serve without compensation, but shall be reimbursed for expenses necessarily incurred by them in attending authorized committee business and in the performance of their duties under this part.

§ ----30 Powers.

The committee shall have the following powers:

- (a) To administer this part in accordance with its terms and provisions;
- (b) To make rules and regulations to effectuate the terms and provisions of this part;
- (c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and
- (d) To recommend to the Secretary amendments to this part.

§ ----31 Duties.

The committee shall have, among others, the following duties:

- (a) As soon as practicable after the beginning of each term of office, to meet and organize, to select from among its members and alternates such officers and subcommittees, and to adopt such rules, regulations, and bylaws for the conduct of its business as it deems necessary;
- (b) To act as intermediary between the Secretary and any producer or handler;
- (c) To furnish to the Secretary such available information as he may request;
- (d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;
- (e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to lettuce;
- (f) To prepare a marketing policy;
- (g) To recommend regulations pursuant to this part to the Secretary;
- (h) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time

by the Secretary or by his authorized agent or representative; such minutes to be reported promptly to the Secretary;

(i) At the beginning of each fiscal period, to prepare a budget of its expenses for such fiscal period, together with a report thereon;

(j) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to producers and handlers for examination at the office of the committee and to send two copies to the Secretary.

(k) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request; two copies of a report of each such audit shall be furnished to the Secretary and show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report (excluding therefrom confidential information), shall be made available at the principal office of the committee for inspection by producers and handlers;

(l) To notify producer and handler members and alternates of meetings of the committee to consider recommendations for regulations and to give the Secretary the same notice of such meetings and of meetings of its subcommittees as is given to the applicable membership;

(m) To investigate compliance and use means available to prevent violation of the provisions of this part;

(n) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper committee activities and objectives under this part; and

(o) To the extent practicable, act as a clearing house of information, to facilitate transfers pursuant to this part.

§ ----32 Annual report.

The committee shall, as soon as is practicable after the close of each marketing season, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

EXPENSES AND ASSESSMENTS

§ ----40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each handler's pro rata share of such expenses shall be proportionate to the ratio between the total quantity of lettuce handled by him as the first handler thereof during a fiscal period and the total quantity of lettuce so handled by all handlers as first handlers thereof during such fiscal period.

§ ----41 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall

prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ ---.42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided for in this subpart. Each handler who first handles lettuce shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied during each fiscal period upon handlers at a rate per unit established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all lettuce which was handled by each first handler there-of during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required irrespective of whether particular provisions of this part are suspended or become inoperative.

§ ---.43 Accounting.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a committee member or alternate, he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds and property (including but not being limited to books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in his successor, the committee, or person designated by the Secretary, the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any

other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations under this part are not in effect and, if the Secretary determines such action appropriate, he may direct that such person or persons may act as such trustee or trustees.

§ ---.44 Excess funds.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of any such assessments which represent payments by the handler in excess of his pro rata share, shall be credited with such refund against his operations of the following fiscal period or such excess shall be accounted for in accordance with one of the following:

(1) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray any expenses authorized under this part, (ii) to defray expenses during any fiscal period prior to the time assessment income is insufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. If upon such termination any funds not required to defray the necessary expenses of liquidation, and after reasonable effort by the committee it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

(2) If such excess is not retained in a reserve or used to defray necessary expenses of liquidation, as provided in subparagraph (1) of this paragraph, it shall be refunded proportionately to the handlers from whom collected: *Provided*, That any sum paid by any handler in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such handler.

RESEARCH AND DEVELOPMENT

§ ---.48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of lettuce. The expenses of such projects shall be paid from funds collected pursuant to § ---.42.

REGULATIONS

§ ---.50 Marketing policy.

(a) For each season, prior to or at the same time as initial recommendations are made pursuant to § ---.51 or § ---.61, or both as applicable, the committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for such season. The report shall indicate the kinds or types of regulations contemplated during such season and to the extent practical, shall include recommendations for particular volume regulations or other regulations which are deemed necessary to meet market requirements and establish orderly marketing conditions. Additional reports shall be submitted if the committee adopts a new or revised marketing policy because of changes in the supply and demand situation with respect to lettuce.

(b) In determining each such marketing policy, committee considerations shall include:

- (1) Prospective lettuce production within the production area by districts and periods and in competing areas;
- (2) Prospective lettuce demand for such, recognizing trend and level of consumer income;
- (3) Market prices for such lettuce, including prices by grade, size, quality, and pack;
- (4) Total of base quantities during each base quantity period; and
- (5) Other relevant factors.

(c) The committee shall publicly announce the submission of each marketing policy (including new or revised policies) and notice and contents thereof shall be provided to producers and handlers by bulletins, newspapers, or other appropriate media.

VOLUME REGULATION

§ ---.51 Recommendation for volume regulation.

(a) The committee may recommend to the Secretary the total quantity of lettuce which it deems advisable to be purchased from producers, and otherwise handled on behalf of producers during an allocation period. Each such recommendation shall be made prior to the beginning of the allocation period.

(b) In making its recommendation the committee shall give due consideration to the following factors: market prices for lettuce, supply of lettuce on track and en route to the principal markets, and the supply, maturity, and condition of lettuce in the production area, and the market prices and supply of lettuce from competing producing areas, and any other relevant factors.

(c) At any time during an allocation period for which the Secretary, pursuant to § ---.52 has fixed the total quantity of lettuce which handlers may purchase from and otherwise handle on behalf of producers, the committee may recommend to the Secretary that such quantity be increased. Each such recommendation, together with the committee's reason for such recommendation, shall be promptly submitted to the Secretary.

§ 52 Issuance of volume regulation.

(a) Whenever the Secretary finds on the basis of a committee recommendation or other information, that limiting the total quantity of lettuce which handlers may purchase from, and otherwise handle on behalf of, producers during an allocation period, and establishing a total allocation or increasing a total allocation previously established, would tend to effectuate the declared policy of the act, he shall establish the total allocation which handlers may purchase from, or handle on behalf of, producers for such period, or increase a previously established total allocation.

(b) When a total allocation, including an increased total allocation, is established for any allocation period, no handler may purchase from, or handle on behalf of, producers any lettuce during such period unless (1) it is within the unused allocation of a producer holding a base quantity pursuant to § 53, and (2) the committee has been notified of the proposed handling as provided in § 54(c).

(c) The committee may, with the approval of the Secretary, establish such rules and regulations regarding obtaining, using, holding, or transferring base quantities or allocations as it feels are necessary to administer the volume regulation provisions of this part. Such rules and regulations may deal with procedures, reports, records, or other requirements, including but not limited to quantities marketed during initial and other representative periods, qualifications as producers, producer arrangements, particulars on harvesting, sale or other handling of lettuce.

(d) No volume regulation shall become effective before August 1, 1972, but in any event not until at least 120 days after the effective date of this subpart.

§ 53 Base quantities.

(a) Upon request of the committee, each producer desiring one or more base quantities shall register with the committee and furnish to it, on forms provided by the committee, a report of the number of cartons of lettuce produced and sold by him, or on his behalf, during the seven seasons, 1964-65 through 1970-71, broken down by cartons, handlers, and such time periods thereof as may be required by the committee and approved by the Secretary.

(b) (1) For the initial season the base quantities shall be established by the committee for each registered producer in accordance with the option of such producer as either (i) the number of cartons of harvested lettuce produced and sold by him or on his behalf in the corresponding base quantity period during the 1969-70 or 1970-71 season or (ii) the average number of cartons of harvested lettuce produced and sold by him or on his behalf in such corresponding periods in one of the following combinations of seasons: 1968-69 and 1969-70; 1967-68 through 1969-70; 1966-67 through 1969-70; 1965-66 through 1969-70; 1967-68 and 1968-69; 1966-67 through 1968-69; 1965-66 through 1968-

69; or 1964-65 through 1968-69: *Provided*, That the person must have at least made a bona fide effort to produce lettuce in at least one of the four seasons 1967-68, 1968-69, 1969-70, or 1970-71 to qualify as a producer under this section: *Provided, further*, That only one such option may be employed by any producer to apply to all his base quantity periods. In determining the base quantities of any registered producer who acquired the lettuce producing business of some other producer, such registered producer may include the quantity sold by or on behalf of the other producer in previous applicable seasons. In any event, the same lettuce sales may not be used in establishing a base quantity for such other producer.

(2) For each season subsequent to the initial season under this part, base quantities for each registered producer shall be adjusted by the committee to recognize trends in sales volume of individual operations. This shall be accomplished by annually recalculating all base quantities for all base quantity periods according to the applicable one of the following procedures:

(i) The base quantity computed on a five-season basis shall be adjusted by: (a) adding the producer's latest season's sales for the corresponding base quantity period to his five-season total sales used in computing his existing base quantity; (b) subtracting the sales recorded for the corresponding base quantity period in the earliest season included in the existing base, and (c) recalculating a new five-season simple average which shall be the new base quantity.

(ii) Base quantities computed on a less than five-season basis shall be adjusted by weighting each season in the original base quantity by the following values and adding a weight of one-fifth to the producer's sales during the initial season of regulation under this part and to such producer's sales in each subsequent season:

Number of years in original base	Year of adjustment			
	First	Second	Third	Fourth
4	1/4	1/4	1/4	1/4
3	1/3	1/3	1/3	
2	1/2	1/2		
1	1			

(weight of each year in original base)

(iii) For purposes of computing base quantities for seasons subsequent to the initial season, sales of harvested lettuce involving transfers of allocations (§ 55) shall be credited to the transferor unless otherwise provided in the written agreement between the producers involved.

(3) For the purpose of computing base quantities pursuant to subparagraphs (1) and (2) of this paragraph in instances in which a field of lettuce was sold before it was ready to be harvested, the buyer and the seller shall each be considered as a producer of such lettuce and shall share equally in any resulting credit from the sale of the harvested lettuce for base quantity purposes unless otherwise specified in the written agree-

ment covering the sale of the unharvested lettuce.

(4) A condition for the continuing validity of a base quantity is production of lettuce thereunder. If no bona fide effort is made to produce and sell lettuce thereunder for commercial purposes during any two consecutive seasons such base quantity may be declared invalid due to lack of use and canceled at the end of the second consecutive season of nonproduction.

(c) (1) It shall be a policy under this part to continually provide the American public with high quality lettuce in adequate volume at a reasonable cost. In carrying out this policy the committee shall, for 1973-74 season and each subsequent season, recommend to the Secretary an adjustment in base quantities covered by this part which will reflect (i) changes in per capita consumption of lettuce in the United States; (ii) changes in population of the United States; (iii) other factors which reflect an increase in consumer demand for lettuce; (iv) desires of new producers to gain entry, and established producers to expand, as evidenced by applications for base quantities or increased base quantities; and (v) any additional factors which bear on industry adjustments to new and changing conditions.

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph the annual increase in the quantity of lettuce provided for by all base quantities covered by this part shall be no more than 5 percent of the total base quantities encompassed by this part during the previous season. Such increase shall be distributed equally among all base quantity periods in the season.

(3) Any person may apply, under rules and procedures to be established by the committee with the approval of the Secretary either for a new base quantity or for an increase in an existing base quantity. Said applications may be submitted annually, but must be filed with the committee on or before January 1 of a given season in order to be considered for an award of a new base quantity or the adjustment of an existing base quantity to take effect the following season.

(4) The committee's recommendations, with justification, supporting data, and a listing and summary of all applications for new or adjusted base quantities, shall be submitted to the Secretary no later than February 1 of each season. Not more than sixty (60) days after receipt of the committee's recommendations, the Secretary shall either approve said recommendations or make whatever alterations therein that he deems necessary in the public interest. In the event no such recommendations or list of applications are received, the Secretary may issue annual additive adjustments in base quantities. The decision of the Secretary shall be final: *Provided*, That he shall communicate his decision and the reasons therefor to the committee in writing.

(5) Within thirty (30) days after receipt of the Secretary's decision, the

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committee shall notify each applicant of the Secretary's decision and for those awarded base quantities, of their base quantity or quantities, by period, for the following season.

(d) The committee may, with the approval of the Secretary, establish rules, guides, bases, or standards to be used in determining base quantity awards or adjustments that are to be recommended to the Secretary taking into account among other things, the minimum economic enterprise requirements for lettuce production.

(e) The committee shall have the authority and responsibility to correct any errors or inaccuracies in base quantity determinations. However, the producers and others involved should have an opportunity to discuss such proposed corrections with the committee. All base quantity applications and determinations covered by this section shall be subject to review by the Secretary.

§ ---.54 Allocations.

(a) When the Secretary establishes an allocation period consisting of a specified week or number of consecutive weeks, and fixes the total allocation for such period, a uniform percentage for such period shall be determined by dividing such total allocation by the total of all existing base quantities. The percentage so determined shall be the uniform percentage for the entire allocation period unless changed by a revised total allocation.

(b) (1) Except as otherwise provided in subparagraphs (2) and (3) of this paragraph, for each allocation period, the allocation for each producer holding a base quantity shall be established by the committee by multiplying each such base quantity by such period's uniform percentage. The committee shall notify each such producer of the aggregate allocation established for him pursuant to this section.

(2) When an allocation period falls within two base quantity periods the total allocation shall be divided in proportion to the number of days of the allocation period in each of the base quantity periods. The resulting computed allocations shall then be divided by the applicable total base quantities to compute uniform percentages by which the producer's base quantities referable to each of the two base quantity periods are multiplied. The sum of the resulting two products shall be established as his allocation for that allocation period.

(3) Each producer not wishing his base quantity to be applied throughout the regular base quantity period shall be given the option of having it applied on a proportional basis within such base quantity period under rules and regulations established by the Secretary upon recommendation of the committee: *Provided*, That such option be exercised at least 120 days prior to the applicable base quantity period.

(4) Producers dealing with a common handler, who mutually agree prior to handling to pool their allocations, shall receive sales credit for purposes of base

quantity history in proportion to their share of the pooled allocations.

(c) Prior to the handling of harvested lettuce during an allocation period, each such producer shall notify the committee in such manner as it may prescribe, of the handler or handlers who will first handle all or a portion of such allocation during such period. The committee shall then notify the respective handlers.

§ ---.55 Transfers.

(a) Base quantities, allocations, or both may be transferred in whole or in part, for specified periods of time, in accordance with rules and procedures prescribed by the Secretary and based on recommendations of the committee: *Provided*, That: (1) Transfers of base quantities shall be made at least 4 months prior to the applicable base quantity period, and (2) that base quantities issued pursuant to § ---.53(c) shall not be transferred for at least 2 years after issuance.

(b) Details of all such transfers shall be confirmed to the committee within 48 hours by parties thereto.

(c) The committee shall be notified if a different amount will be handled by a handler or handlers due to any transfer authorized in paragraph (a) of this section. The committee, upon receipt of such notification, shall advise the handler or handlers involved of the adjustments in the amount each may handle as the first handler thereof, based upon the number of cartons involved in the transfer, and shall revise as necessary the base quantities of, and allocations to, the producers involved.

(d) As a service to producers and handlers to facilitate transfers, the committee shall act as a clearing house of information on producers with deficits in production and availability of lettuce in excess of allocations. Such information shall be available at the committee office to any producer or handler upon request.

§ ---.56 Overages.

Any handler who purchases from or handlers on behalf of a producer during any allocation period a quantity of harvested lettuce covered by a regulation issued pursuant to § ---.52 may purchase from or handle on behalf of such producer and in addition to such producer's allocation, established for him pursuant to § ---.54 an amount equal to 10 percent of such producer's allocation: *Provided*, That the quantity of lettuce so handled in excess of each such producer's allocation shall be deducted from such producer's allocation for the next allocation period: *Provided further*, That the committee, with the approval of the Secretary, may change the overage percentage permitted. Similarly they shall adopt rules and regulations to ensure repayment of any coverages and to effectuate the provisions of this section.

§ ---.57 Shortages.

Any handler who purchases from or handles on behalf of, a producer during any allocation period a quantity of let-

tuce covered by a regulation issued pursuant to § ---.52, in any amount less than the allocation established for such producer pursuant to § ---.54 for such period, may so purchase or handle, in addition to such producer's allocation for the next allocation period only, an amount equal to any such shortage but not to exceed 25 percent of the allocation for the period in which the shortage occurred: *Provided*, That the committee, with the approval of the Secretary, may change this percentage.

§ ---.58 Priority of allocations.

Any handler who, during any allocation period, has the right to purchase from, or handle on behalf of, a producer a quantity of lettuce in addition to such producer's available allocation for such period pursuant to §§ ---.54 and ---.56 by reason of a shortage of such producer's preceding weekly allocation pursuant to § ---.57 or the transfer of allocation to him from other producers pursuant to § ---.55, and such handler so purchases from or handles on behalf of such producer a quantity of lettuce which is less than the total quantity of lettuce which he may so purchase or handle during such period then the amount of such lettuce purchased from, or handled on behalf of, the producer shall first apply proportionately to the producer's current week's allocation and to any allocation transferred to him pursuant to § ---.55 on which the producer whose allocation was transferred retains the right to include the quantities sold in the calculation of his base quantity in future years. The remainder, if any, shall be applied in the following order: (a) To any shortage of his immediate preceding weekly allocation, (b) to any allocations transferred to him on which he retains the right to include the quantity sold in the calculation of base quantity in future years, and (c) to any overage of his current week's allocation.

OTHER REGULATIONS

§ ---.61 Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate the handling of lettuce in the manner provided in § ---.62 it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for lettuce during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information of which such recommendation is predicated and such other available information as the Secretary may request.

§ ---.62 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section the handling of lettuce whenever he finds,

from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of harvested lettuce.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary and the committee shall promptly give notice thereof to handlers.

§ ---.63 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulation issued pursuant to § ---.62 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information that a regulation should be modified, suspended, or terminated with respect to any or all shipments of lettuce in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ ---.64 Special purpose shipments.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ ---.42, ---.52, and ---.62 and the regulations issued thereunder, handle lettuce donated (1) for consumption by charitable institutions; or (2) for distribution by relief agencies.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements under or established pursuant to §§ ---.42, ---.52, and ---.62 the handling of lettuce for such specified purposes including shipments to facilitate the conduct of production or marketing research and development projects established pursuant to § ---.48, as may be prescribed.

(c) Harvested lettuce handled pursuant to this section without regard to the allocation regulations pursuant to this subpart shall not be included in computing future base quantities pursuant to § ---.53(b)(2).

(d) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent lettuce handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file

applications and receive approval from the committee for authorization to handle lettuce pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the lettuce will not be used for any purpose not authorized by this section.

MINIMUM QUANTITY EXEMPTION

§ ---.75 Minimum quantity exemption.

The committee, with the approval of the Secretary, may establish a minimum quantity of lettuce which may be handled free from regulations issued pursuant to: § ---.52 Issuance of volume regulation; § ---.62 Issuance of regulations; and § ---.42 Assessments.

REPORTS

§ ---.80 Weekly report.

On or before such day of each week as approved by the Secretary, each handler shall report to the committee, on forms prepared by it, the following information with respect to lettuce handled by such handler during the immediate preceding week:

- (a) Quantity handled.
- (b) Total quantity disposed of otherwise, showing the manner and quantity of each such disposition.

§ ---.81 Manifest report.

Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering each shipment of lettuce as follows:

- (a) Name of shipper and shipping point.
- (b) The car or truck license number.
- (c) The date of shipment.
- (d) The number of cartons of lettuce.
- (e) The quantity shipped.
- (f) The destination.

§ ---.82 Other reports.

(a) Upon requests of the committee, with the approval of the Secretary, each handler shall furnish to the committee such information as may be necessary to enable the committee to perform its duties under this part.

(b) When necessary the committee may request reports from individual handlers. Such reports may include, but are not limited to:

- (1) Information regarding specific sales, transportation or other handling of lettuce.
- (2) Anticipated lettuce planting intentions for the next three successive weeks.
- (3) Fields or blocks of lettuce owned or controlled by applicant.
- (4) Quantity of lettuce harvested from particular fields or blocks of lettuce with dates of harvest.
- (5) Identification of each lot by original base quantity holder and subsequent transfers.

(c) All reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees or agents thereof, so that the information contained therein which may adversely affect the competi-

tive position of any handler or producer in relation to other handlers or producers will not be disclosed. Compilations of general reports from data submitted by handlers and producers is authorized, subject to the prohibition of disclosure of any individual handler's or producer's operations; *Provided*, That all individual base quantities and allocations shall be considered public information.

§ ---.83 Handler records.

Each handler shall maintain for at least 2 succeeding years after the end of the season to which they relate such records of the lettuce received, and of lettuce disposed of by him as may be necessary to substantiate the reports he submits to the committee pursuant to §§ ---.80 and ---.83.

§ ---.84 Verification of reports and records.

(a) For the purpose of assuring compliance with recordkeeping requirements and certifying reports of producers and handlers, the Secretary and the committee, through their duly authorized employees or agents, shall have access to any premises where applicable records are located, where lettuce is handled, and at any time during reasonable business hours shall be permitted to inspect such producer and handler premises and any and all records of such persons with respect to matters within the purview of this part.

(b) Any person filing a report, record, or application that is willfully misrepresented shall be subject to the legal penalties for such misrepresentation on government reports, as well as subject to correcting any base quantity or allocation issued by the committee based upon any such misrepresentation.

§ ---.85 Compliance.

Except as provided in this subpart, no handler shall handle lettuce, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle lettuce except in conformity to the provisions of this subpart.

§ ---.86 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ ---.87 Effective time.

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

PROPOSED RULE MAKING

terminated in one of the ways specified in this subpart.

§ ---.88 Termination.

(a) The Secretary at any time may terminate the provisions of this subpart by giving at least 1 day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary shall, whenever he finds that any or all provisions of this subpart, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or such provision thereof.

(c) The Secretary shall conduct a referendum within the month of February of every fifth year after the effective date of this subpart to ascertain whether continuation of this part is favored by the producers.

(d) The Secretary shall terminate the provisions of this subpart at the end of the then current marketing year whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of lettuce, within the production area: Provided, That such majority have during such representative period produced for market more than 50 percentum of the volume of such lettuce produced for market, but such termination shall be effective only if announced on or before June 30 of the current marketing year.

(e) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ ---.89 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as joint trustees for the purpose of settling the affairs of the committee by liquidating all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed

upon the members of the committee and upon the said trustees.

§ ---.90 Effect of termination or amendments.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) effect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ ---.91 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ ---.92 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ ---.93 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ ---.94 Personal liability.

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ ---.95 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ ---.96 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

[FR Doc.72-1304 Filed 1-27-72;8:50 am]

- [7 CFR Parts 1001, 1002, 1004, 1006, 1007, 1011, 1012, 1013, 1015, 1030, 1032, 1033, 1036, 1040, 1043, 1044, 1046, 1049, 1050, 1060, 1061, 1062, 1063, 1064, 1065, 1068, 1069, 1070, 1071, 1073, 1075, 1076, 1078, 1079, 1090, 1094, 1096, 1097, 1098, 1099, 1101, 1102, 1103, 1104, 1106, 1108, 1120, 1121, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1136, 1137, 1138]

[Docket No. AO-14-A50 etc.]

MILK IN THE BOSTON REGIONAL AND CERTAIN OTHER MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

Table with 3 columns: 7 CFR Part, Marketing area, Docket No. Lists various regions like Boston Regional, New York-New Jersey, Middle Atlantic, etc., with corresponding docket numbers.

A public hearing was held upon proposed amendments to the marketing

agreements and the orders regulating the handling of milk in the aforesaid 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 Washington, D.C., December 13, 1971, pursuant to notice thereof issued on December 3, 1971 (36 F.R. 23222).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on January 5, 1972, 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 under "1. Advance pricing.":

1. A paragraph is added immediately following the 10th paragraph.

2. The first sentence in the 15th paragraph is revised.

3. Two paragraphs are added immediately following the 16th paragraph.

4. The last sentence in the 21st paragraph is revised.

The material issues on the record relate to:

1. Advancing the date for announcing the Class I price.

2. Taking emergency action with regard to issue 1.

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. *Advance pricing.* The Class I price for the month under each of the 62 orders, except south Texas, should be announced by the fifth day of the preceding month instead of in the current month, as now provided in the orders. Also, the Minnesota-Wisconsin price for the second preceding month (instead of for the immediately preceding month, as now provided in the orders) should be used in computing the Class I price.

The Milk Industry Foundation (MIF), whose membership includes handlers under the 62 orders, proposed the earlier determination and announcement of Class I prices adopted herein. MIF claims that because handlers are unable to adjust their resale prices at the same time as, or within a reasonable period of, the change in their raw material cost, they are forced to absorb Class I price increases for extended periods before they can make necessary adjustments in their resale prices. The need for advance pricing is particularly urgent now, according to MIF, because of the requirements to which handlers are subject under the Economic Stabilization Act. Proponents claim handlers would be required to substantiate resale price increases resulting from Class I price changes in accordance with steps prescribed pursuant to that Act. This procedure, it is argued, will extend even further the period of time be-

tween a Class I price change and the corresponding adjustment in resale prices.

A handler who operates regulated plants under a number of orders testified in support of the MIF proposal. The witness emphasized particularly that advance pricing is needed by handlers to enable them to change resale prices at the same time the Class I price increases. He stated that handlers are now at a disadvantage in not knowing the Class I price for the month before the fifth of the month and, therefore, are unable to institute resale price changes before the greater part of the month to which the Class I price applies is over.

National Milk Producers Federation (NMPF), which represents producer associations under the 62 orders, supported the MIF proposal. A number of producer association members of NMPF maintain milk processing and distribution operations. According to the NMPF witness, such associations have the same interest in advance Class I pricing as do proprietary handlers. The witness further stated that its other producer association members, however, fully support the proposal. He took the position that using the Minnesota-Wisconsin price for a month earlier than at present (in computing the Class I price) would not result in producers receiving any less money for their milk than they do now. He reasoned that the increases and decreases from month to month in the Class I price (due to changes in the Minnesota-Wisconsin price) would be fully reflected in returns to producers as they now are, except for a delay of one month.

The spokesman for a cooperative representing producers under five orders in the northeast stated that the cooperative had not had sufficient time to study the proposal and its effect on its members, and therefore, urged that no action be taken on it. He questioned particularly whether the principal basis of proponents for requesting advance pricing is a valid one. In this connection, he cited an earlier decision of the Secretary in which it was found that there is no basis for assuming that there is a direct relationship between changes in Class I prices and changes in prices charged to stores and to consumers.

The rapidly changing structure of the milk distribution industry throughout the United States makes it desirable that handlers be notified at a reasonable period in advance of changes in the price they must pay for Class I milk. An increasing proportion of the milk distribution throughout the country is by large firms, including cooperative associations as well as proprietary handlers. The centralized control of these large distributors requires a longer period of time between the date a Class I price change is announced and the time when the change may be made in their resale prices.

According to an industry witness, it is mechanically impossible to place in effect a price increase in less than 2 to 4 weeks after learning of Class I price

changes. This problem is compounded by the adoption of machine accounting by both handlers and retailers. Computer programs must be changed by both parties, a new price list developed and circulated by handlers, and new pricing schedules issued to retailers by both chain and cooperative buying groups.

The major portion of the distribution of the principal handlers in the order markets is to large volume buyers, such as supermarket chains and institutions (e.g. hospitals, schools). The prices at which sales are made to these are primarily on a contractual basis, many by advance bidding. Announcing Class I prices before the month to which they apply will facilitate the resale pricing of milk sold to large volume outlets.

Replacing the Minnesota-Wisconsin price for the month immediately preceding with that for the second preceding month for computing Class I prices need not have, as testified by producers, any significant effect on producer returns since the proposed change only involves advance setting of price and not a change in the basis of pricing Class I milk.

To follow strictly the proposal made by the industry, advance pricing could not be incorporated in the orders to affect Class I prices prior to March 1972. That is, if the orders were amended (as a result of this decision) to be effective February 1, 1972, the Class I price for March would be announced on February 5 and would be based on the Minnesota-Wisconsin price for January (instead of February as now provided).

The orders should specify that for the first month the changes herein adopted would become effective the market administrators announce, by the fifth of the month, the Class I prices for that month (as now provided in the orders) as well as the Class I prices for the following month (as would be provided by the amended orders). Absent such a provision, the orders would be silent regarding the Class I price announcement for the first month in which the proposed amendments would become effective. The Class I prices announced in this first month for the current month would be calculated by using the Minnesota-Wisconsin price for the second month preceding it.

Although the Minnesota-Wisconsin price and other quotations necessary for announcing the Class I price and Class I butterfat differential (and all other class prices and butterfat differentials) are available by the fifth of the month, the date by which they are required to be announced varies among the orders. In 38 of the 62 orders they must be announced by the fifth of the month, in 19 by the sixth, in one by the eighth, in two by the 10th, and in two by the 12th. For classes other than Class I, prices and butterfat differentials announced by these dates are those for the preceding month.

Since the information necessary for these determinations is available by the fifth of the month, the orders should provide explicitly and uniformly that the market administrator publicly announce

all class prices by that date. For Class I, the price announced would be that for the following month and the butterfat differential that for the current month. For classes other than Class I, the prices and butterfat differentials announced would be those for the preceding month.

The date by which the uniform price(s) in each order must be announced was not considered at the hearing and is unchanged by this decision.

Providing the same uniform language in all orders regarding the announcement of class prices, butterfat differentials and uniform prices will not change a market administrator's obligation to mail copies of all price announcements to handlers and other interested parties. Neither will it diminish the obligation of the market administrator under any order from that required of him at present with regard to issuing price announcements. On the other hand, it will contribute towards obtaining uniformity in the order provisions and thus provide price information to all parties at the same time.

The Minnesota-Wisconsin price (adjusted to a 3.5 percent butterfat basis) should be designated as the basic formula price in all orders and should be set forth in the same language in all orders as "the average price per hundredweight for manufacturing grade milk (average butterfat content), f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33."

No purpose is served by the variations in the language now used in the orders that define the basic formula price. Accordingly, provision is made in this decision to institute precisely the same language, as cited above, in all orders in referring to the Minnesota-Wisconsin price, as adjusted to a 3.5 percent butterfat basis. Likewise, a basic formula price definition as set forth above should be instituted in the several orders in which reference is now made to the Minnesota-Wisconsin price, but in which it is not indicated as the basic formula price. The uniformity thus achieved will facilitate cross references sometimes appropriate between the orders.

Producers and handlers excepted to adding the phrase "average butterfat content" in the first sentence of the basic formula price definition contained in the recommended decision. That sentence is: "The basic formula price shall be the average price per hundredweight for manufacturing grade milk (average butterfat content), f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and

rounded to the nearest cent." "Average butterfat content" is not now so used in the orders in describing how the Minnesota-Wisconsin price or basic formula price must be determined. Exceptors claim that the addition of this phrase could result in changing the basic formula price from what is now provided in the orders, and that such a change was not a matter under consideration at the hearing.

The orders are sufficiently clear (with-out using the phrase "average butterfat content") that the Minnesota-Wisconsin price, as reported by the Department, must be adjusted from the average test at which the various plants report their pay prices to a 3.5 percent butterfat basis. Accordingly, it is not included in the basic formula price definition adopted in this decision.

In all orders the Class I price is determined, directly or indirectly, by adding a differential to the basic formula price. In most orders the Class I differential is a stated amount "plus 20 cents." The "plus 20 cents," which was instituted in these orders by amendment for specified periods prior to January 1, 1969, has been effective without a termination date since then. There is, therefore, no apparent need to continue listing the "plus 20 cents" separately from the stated Class I differential. In the amended order language here adopted, the Class I differential for each order is stated as one amount, which includes the plus 20 cents heretofore listed separately.

No change should be made in computing the Class I butterfat differential. Except for the three Florida orders (which specify that the Class I butterfat differential shall be 7.5 cents each month) Class I butterfat differentials are based on the average of the wholesale selling prices of 92-score butter at Chicago for the preceding month.

Proponents advocating the use of the Minnesota-Wisconsin price for the second preceding month in computing the Class I price proposed at the hearing that the Class I butterfat differential be announced by the fifth day of the preceding month and be based on the Chicago butter price for the second preceding month. The hearing notice contained no proposal, however, for advancing the Class I butterfat differential announcements. Those proposing it urged its adoption as an appropriate corollary change.

The Class I butterfat differential changes infrequently. This is because the Chicago butter price quotations, which are strongly influenced by the prices paid for butter by the Government under the price support program, do not vary significantly from month to month. Consequently, there is no compelling need to advance the Class I butterfat differential announcement in connection with the adoption of advance Class I pricing. Moreover, proposals to revise the butterfat differential provisions in 40 of the 62 orders were considered at hearings which began in Clayton, Mo., July 14, 1970 (35 F.R. 10694) for seven orders and in Atlanta, Ga., on October 18, 1971 (36 F.R. 19604) for 33 orders. Action on the rec-

ord of these hearings has not been completed. It would be inappropriate, therefore, to amend any butterfat differential provision in these orders without full consideration of the evidence on the still open records of the hearings previously held.

No change in the South Texas order should be made now on the basis of this record. An order issued by the Secretary on July 16, 1971, terminated the South Texas order effective August 1, 1971. However, an injunction issued by the U.S. District Court for the District of Columbia deferred the termination date pending a further hearing by the court into the authority of the Secretary to terminate the order. The hearing on this matter has not yet been held. In this circumstance, no action to amend the South Texas order is deferred at this time.

2. Emergency action. The request by proponents for emergency action (that no recommended decision be issued and that the final decision be issued in sufficient time to amend the orders January 1, 1972) is denied.

A primary reason advanced by proponents for emergency action is the time-consuming procedures required for making price changes under the Economic Stabilization Program (Phase II). This is not a problem distinguishable on the record from the problems faced by participants in many other industries with respect to the pricing of their goods. Also, there is uncertainty at present of the extent to which the various categories of milk handlers are affected by that program. It cannot be concluded therefore, that the requirements of the Economic Stabilization Act per se warrant the emergency action requested.

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 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.

(a) The tentative marketing agreements and the orders, 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 agreements and the orders, 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 agreements and the orders, 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, marketing agreements 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 orders regulating the handling of milk in the aforesaid specified 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 agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

October 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 aforesaid specified marketing areas is approved or favored by producers, as defined under the terms of the orders, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on January 24, 1972.

RICHARD E. LYNG,
Assistant Secretary.

Order¹ Amending the Orders, Regulating the Handling of Milk in Certain Specified 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 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.

(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 aforesaid specified marketing areas.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

(1) The said orders 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 areas, and the minimum prices specified in the orders 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 orders 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 agreements 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 specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and orders amending each of the specified orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on January 5, 1972, and published in the FEDERAL REGISTER on January 12,

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.

1972 (37 F.R. 449) shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein subject to the modifications made in §§ 1001.32, 1001.60, 1002.22, 1002.50, 1004.22, 1004.50, 1006.22, 1006.50, 1007.27, 1007.50, 1011.22, 1011.50, 1012.22, 1012.50, 1013.27, 1013.50, 1015.32, 1015.60, 1030.22, 1030.50, 1032.22, 1032.50, 1033.27, 1033.50, 1036.27, 1036.50, 1040.27, 1040.50, 1043.22, 1043.50, 1044.22, 1044.50, 1046.22, 1046.50, 1049.27, 1049.50, 1050.22, 1050.50, 1060.32, 1060.50, 1062.22, 1062.50, 1063.22, 1063.50, 1064.22, 1065.50, 1068.22, 1068.51, 1069.22, 1069.50, 1070.22, 1070.50, 1071.22, 1071.50, 1073.22, 1073.50, 1075.27, 1075.50, 1076.27, 1076.50, 1077.22, 1077.50, 1079.27, 1079.50, 1090.27, 1090.50, 1094.22, 1094.50, 1096.27, 1096.50, 1097.22, 1097.50, 1098.22, 1098.50, 1099.22, 1099.50, 1101.22, 1101.50, 1102.22, 1102.50, 1103.22, 1103.50, 1104.27, 1106.22, 1106.50, 1108.27, 1108.50, 1120.27, 1120.50, 1124.22, 1124.50, 1125.22, 1125.50, 1126.27, 1126.50, 1128.22, 1128.50, 1129.27, 1129.50, 1131.22, 1131.50, 1132.27, 1132.50, 1133.22, 1133.50, 1134.22, 1134.50, 1136.22, 1136.50, 1137.22, 1137.50, 1138.22, and 1138.50.

PART 1001—MILK IN BOSTON REGIONAL MARKETING AREA

1. In § 1001.32, paragraph (j) is revised as follows:

§ 1001.32 Additional duties of the market administrator.

(j) Publicly announce on or before:

(1) The fifth day of each month:

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class II price for the preceding month; and

(iii) The butterfat differential for the preceding month;

(2) The 13th day of each month, the zone blended prices resulting from the adjustment of the basic blended price for the preceding month, as computed under § 1001.65, by the zone differentials contained in § 1001.62(d); and

(3) Whenever required for purpose of assigning receipts from other Federal order plants under § 1001.56(b), his estimate of the utilization (to the nearest whole percentage) in each class during the month of butterfat and skim milk, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

2. The Class I price provisions of § 1001.60 are revised and redesignated. A new § 1001.60 is added as follows:

§ 1001.60 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such

adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. Section 1001.61 is revised as follows:

§ 1001.61 Class prices.

The class prices per hundredweight of milk containing 3.5 percent butterfat for the month, at plants located in zone 21, shall be computed as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.58.

(b) *Class II price.* Subject to the adjustment set forth below for the applicable month, the Class II price shall be the lesser of the basic formula price for the month or a butter-powder formula price for the month computed pursuant to subparagraphs (1) through (3) of this paragraph.

Month	Amount
January	+\$0.03
February	+.02
March	-.05
April	-.09
May	-.12
June	-.11
July	+.03
August	+.10
September	+.06
October	+.06
November	+.06
December	+.06

(1) Multiply by 4.2 the Chicago butter price specified in § 1001.60;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 48 cents, and round to the nearest cent.

§ 1001.62 [Amended]

4. In § 1001.62 the reference "§ 1001.60," and the comma following the reference to § 1001.61 are deleted.

§ 1001.56 [Amended]

5. In § 1001.56, the reference to "§ 1001.32(j) (4)" in subparagraph (1) of paragraph (b) is changed to "§ 1001.32(j) (3)".

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

1. In § 1002.22, paragraph (m) is revised as follows:

§ 1002.22 Additional duties of the market administrator.

(m) Publicly announce the following:

(1) The fifth day of each month:

(i) The Class I price for the following month applicable at the 201-210-mile zone and at the 1-10-mile zone, and for the first month for which this paragraph is effective, the Class I price for the current month at such zones.

(ii) The Class II price for the preceding month applicable at the 201-210-mile zone and at the 1-10-mile zone; and

(iii) The butterfat differential for the preceding month;

2. The class prices provisions of § 1002.50 are revised and redesignated. A new § 1002.50 is added as follows:

§ 1002.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. A new § 1002.50a is added as follows:

§ 1002.50a Class prices.

For pool milk received during each month from dairy farmers or cooperative associations of producers, each handler shall pay per hundredweight not less than the prices set forth in this section, subject to the differentials and adjustments in §§ 1002.51 and 1002.81. Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler but which does not operate the plant or the unit receiving the milk from producers shall on or before the 15th day of the following month pay such class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 1002.51, 1002.81, and 1002.82(b) applicable at the location where the milk is received from producers. Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler and which operates the plant or the unit receiving the milk from producers shall on or before the 15th day of the following month pay such cooperative association in full for such milk at not less than the minimum class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 1002.51, 1002.52, 1002.81, and 1002.82(b) applicable at the plant at which the milk is first received.

(a) For Class I-A milk the price shall be the basic formula price for the second preceding month plus \$2.40.

(b) For Class I-B milk the price shall be the price for Class I-A milk.

(c) Subject to the adjustment set forth below for the applicable month, the Class II price shall be the lesser of the basic formula price for the month or a butter-powder formula price computed pursuant to subparagraphs (1) through (3) of this paragraph:

Month	Amount
January	+\$0.03
February	+.02
March	-.05
April	-.09
May	-.12
June	-.11
July	+.03
August	+.10
September	+.06
October	+.06
November	+.06
December	+.06

(1) Multiply by 4.2 the Chicago butter price specified in § 1002.50;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 48 cents and round to the nearest cent.

§ 1002.51 [Amended]

4. In § 1002.51 the reference "§ 1002.50" is changed to "§ 1002.50a".

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. In § 1004.22, paragraph (j) is revised as follows:

§ 1004.22 Additional duties of the market administrator.

(j) Publicly announce on or before:

(1) The fifth day of each month:

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class II price for the preceding month; and

(iii) The producer butterfat differential for the preceding month.

(2) The 13th day of each month, the uniform price(s) pursuant to §§ 1004.71 and 1004.72 for the preceding month.

2. The class price provisions of § 1004.50 are revised and redesignated. A new § 1004.50 is added as follows:

§ 1004.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the

wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. A new § 1004.50a is added as follows:

§ 1004.50a Class prices.

Subject to the provisions of § 1004.51 the minimum class prices per hundredweight of milk containing 3.5 percent butterfat for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.78.

(b) *Class II price.* Subject to the adjustment set forth below for the applicable month, the Class II price shall be the lesser of the basic formula price for the month or a butter-powder formula price computed pursuant to subparagraphs (1) through (3) of this paragraph.

Month	Amount
January	+\$0.05
February	+ .04
March	— .03
April	— .07
May	— .10
June	— .09
July	+ .05
August	+ .12
September	+ .08
October	+ .08
November	+ .08
December	+ .08

(1) Multiply by 4.2 the Chicago butter price specified in § 1004.50;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

PART 1006—MILK IN UPPER FLORIDA MARKETING AREA

1. In § 1006.22, paragraph (j) is revised as follows:

§ 1006.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month;
 - (iii) The Class II price and the Class II butterfat differential, both for the preceding month; and
 - (2) The 11th day of each month, the uniform price and the producer butterfat

differential, both for the preceding month;

2. Section 1006.50 is revised as follows:

§ 1006.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1006.51, paragraph (a) is revised as follows:

§ 1006.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.85.

PART 1007—MILK IN GEORGIA MARKETING AREA

1. In § 1007.27, paragraph (j) is revised as follows:

§ 1007.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 11th day of each month, the uniform price(s) pursuant to §§ 1007.61 and 1007.61a and the producer butterfat differential, all for the preceding month;

2. Section 1007.50 is revised as follows:

§ 1007.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per

pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1007.51, paragraph (a) is revised as follows:

§ 1007.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.30.

PART 1011—MILK IN APPALACHIAN MARKETING AREA

1. In § 1011.22, paragraph (k) is revised as follows:

§ 1011.22 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1011.50 is revised as follows:

§ 1011.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1011.51, paragraph (a) is revised as follows:

§ 1011.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.13.

PART 1012—MILK IN TAMPA BAY MARKETING AREA

1. In § 1012.22, paragraph (j) is revised as follows:

§ 1012.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
- (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and the Class II butterfat differential, both for the preceding month;
 - (2) The 11th day of each month the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1012.50 is revised as follows:

§ 1012.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1012.51, paragraph (a) is revised as follows:

§ 1012.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.95.

PART 1013—MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

1. In § 1013.27, paragraph (j) is revised as follows:

§ 1013.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
- (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 11th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1013.50 is revised as follows:

§ 1013.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. Section 1013.51(a) is revised as follows:

§ 1013.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$3.15.

PART 1015—MILK IN CONNECTICUT MARKETING AREA

1. In § 1015.32, paragraph (g) is revised as follows:

§ 1015.32 Additional duties of the market administrator.

- (g) Publicly announce on or before:
- (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class II price for the preceding month; and
 - (iii) The butterfat differential for the preceding month;
 - (2) The 14th day of each month the basic uniform price for the preceding month computed under § 1015.64 and the zone uniform prices resulting from the adjustment of the basic uniform price by the zone price differentials under § 1015.62; and

(3) Whenever required for the purpose of assigning receipts from other Federal order plants pursuant to § 1015.55(c) (2), his estimate of the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

2. The Class I price provisions of § 1015.60 are revised and redesignated. A new § 1015.60 is added as follows:

§ 1015.60 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and

rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. Section 1015.61 is revised as follows:

§ 1015.61 Class prices.

The class prices per hundredweight of milk containing 3.5 percent butterfat for the month at plants located in the nearby plant zone shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.98.

(b) *Class II price.* Subject to the adjustment set forth below for the applicable month, the Class II price shall be the lesser of the basic formula price for the month or a butter-powder formula price computed pursuant to subparagraphs (1) through (3) of this paragraph.

Month	Amount
January	+\$0.088
February	+ .078
March	+ .008
April	-.032
May	-.062
June	-.052
July	+ .088
August	+ .158
September	+ .118
October	+ .118
November	+ .118
December	+ .118

(1) Multiply by 4.2 the Chicago butter price specified in § 1015.60;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for non-fat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 48 cents, and round to the nearest cent.

§ 1015.62 [Amended]

4. In § 1015.62 the reference "§ 1015.60" is deleted.

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. In § 1030.22, paragraph (j) is revised as follows:

§ 1030.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
- (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

- (ii) The Class I butterfat differential for the current month; and
- (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 14th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1030.50 is revised as follows:

§ 1030.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1030.51, paragraph (a) is revised as follows:

§ 1030.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.26.

PART 1032—MILK IN SOUTHERN ILLINOIS MARKETING AREA

1. In § 1032.22, paragraph (h) is revised as follows:

§ 1032.22 Additional duties of the market administrator.

- (h) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1032.50 is revised as follows:

§ 1032.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differ-

ential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

PART 1033—MILK IN OHIO VALLEY MARKETING AREA

1. In § 1033.27, paragraph (k) is revised as follows:

§ 1033.27 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
 - (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1033.50 is revised as follows:

§ 1033.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1033.51, paragraph (a) is revised as follows:

§ 1033.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.70.

PART 1036—MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. In § 1036.27, paragraph (j) is revised as follows:

§ 1036.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
 - (2) The 14th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1036.50 is revised as follows:

§ 1036.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1036.51, paragraph (a) is revised as follows:

§ 1036.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.87 for plants in the Cleveland-Erie district and \$1.97 for plants in the Pittsburgh district. At a plant outside the marketing area, add to the basic formula price for the second preceding month the amount applicable pursuant to this paragraph at the location of the city hall of the following cities that is nearest such plant (by the shortest hard-surfaced highway distance as determined by the market administrator): Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va.

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

1. In § 1040.27, paragraph (k) is revised as follows:

§ 1040.27 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and

(iii) The Class II and Class III prices, the corresponding butterfat differentials and the producer butterfat differential, all for the preceding month; and

(2) The 11th day of each month, the uniform prices pursuant to §§ 1040.62, 1040.63, and 1040.65, and the excess milk price, all for the preceding month;

2. Section 1040.50 is revised as follows:

§ 1040.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1040.51, paragraph (a) is revised as follows:

§ 1040.51 Class I milk price.

(a) To the basic formula price for the second preceding month add \$1.60.

PART 1043—MILK IN UPSTATE MICHIGAN MARKETING AREA

1. In § 1043.22, paragraph (i) is revised as follows:

§ 1043.22 Additional duties of the market administrator.

(i) Publicly announce on or before:
(1) The fifth day of each month;

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1043.50 is revised as follows:

§ 1043.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average

of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1043.51, the text preceding paragraph (b) is revised as follows:

§ 1043.51 Class prices.

Subject to the provisions of §§ 1043.52 and 1043.53, the prices per hundredweight to be paid by each handler, f.o.b. his pool plant for milk received from producers or from cooperative associations during the month, shall be as follows:

(a) *Class I milk.* The Class I price shall be the basic formula price for the second preceding month plus \$1.49.

§ 1043.62 [Amended]

4. In § 1043.62, the reference to "§ 1043.51(b)(2)(i)" is changed to "§ 1043.50."

PART 1044—MILK IN MICHIGAN UPPER PENINSULA MARKETING AREA

1. In § 1044.22, paragraph (i) is revised as follows:

§ 1044.22 Additional duties of the market administrator.

(i) Publicly announce on or before:

(1) The fifth day of each month;

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1044.50 is revised as follows:

§ 1044.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1044.51, paragraph (a) is revised as follows:

§ 1044.51 Class prices.

(a) *Class I price.* The Class I price for plants located in Zone 1 shall be the basic formula price for the second preceding month plus \$1.15. For plants located in Zone 1(a) the price shall be the price specified for Zone 1 less 10 cents; for plants located in Zone 2 the price shall be the price specified for Zone 1 plus 20 cents; and for plants located outside of the marketing area and west of Lake Michigan, the price (subject to § 1044.53) shall be that specified for Zone 1 and for plants located outside the marketing area and east of Lake Michigan, the price (subject to § 1044.53) shall be that specified for Zone 2.

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. In § 1046.22, paragraph (k) is revised as follows:

§ 1046.22 Additional duties of the market administrator.

(k) Publicly announce on or before:

(1) The fifth day of each month;

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1046.50 is revised as follows:

§ 1046.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1046.51, paragraph (a) is revised as follows:

§ 1046.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.49.

**PART 1049—MILK IN INDIANA
MARKETING AREA**

1. In § 1049.27, paragraph (j) is revised as follows:

§ 1049.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 14th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1049.50 is revised as follows:

§ 1049.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1049.51, paragraph (a) is revised as follows:

§ 1049.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.47.

**PART 1050—MILK IN CENTRAL
ILLINOIS MARKETING AREA**

1. In § 1050.22, paragraph (h) is revised as follows:

§ 1050.22 Additional duties of the market administrator.

- (h) Publicly announce on or before:
 - (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1050.50 is revised as follows:

§ 1050.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1050.51, paragraph (a) is revised as follows:

§ 1050.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.39.

**PART 1060—MILK IN MINNESOTA-
NORTH DAKOTA MARKETING AREA**

1. In § 1060.32, paragraph (j) is revised as follows:

§ 1060.32 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1060.50 is revised as follows:

§ 1060.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the mid-

point of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1060.51, paragraph (a) is revised as follows:

§ 1060.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.30.

**PART 1061—MILK IN SOUTHEASTERN
MINNESOTA-NORTHERN IOWA
(DAIRYLAND) MARKETING AREA**

1. In § 1061.22, paragraphs (h) and (i) are revised as follows:

§ 1061.22 Additional duties of the market administrator.

- (h) Publicly announce on or before:
 - (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;
- (i) On or before the 12th day of each month, notify each handler of his obligations to the producer-settlement fund for the preceding month;

2. Section 1061.50 is revised as follows:

§ 1061.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1061.51, paragraph (a) is revised as follows:

§ 1061.51 Class prices.

(a) *Class I milk price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.06.

PART 1062—MILK IN ST. LOUIS-OZARKS MARKETING AREA

1. In § 1062.22, paragraph (i) is revised as follows:

§ 1062.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (ii) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (iii) The Class I butterfat differential for the current month; and
 - (iv) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1062.50 is revised as follows:

§ 1062.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1062.51, paragraph (a) is revised as follows:

§ 1062.51 Class prices.

(a) *Class I price.* The Class I price at plants located in Zone I shall be the basic formula price for the second preceding month plus \$1.60.

PART 1063—MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

1. In § 1063.22, paragraph (j) is revised as follows:

§ 1063.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (ii) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;
 - (iii) The Class I butterfat differential for the current month; and
 - (iv) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price and the producer butter-

fat differential, both for the preceding month;

2. Section 1063.50 is revised as follows:

§ 1063.50 Basic formula and class prices.

The basic formula and class prices for the month shall be as follows:

(a) *Basic formula price.* The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

(b) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.33.

(c) *Class II price.* The Class II price shall be the basic formula price for the month.

PART 1064—MILK IN GREATER KANSAS CITY MARKETING AREA

1. In § 1064.22, paragraph (j) is revised as follows:

§ 1064.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (ii) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (iii) The Class I butterfat differential for the current month; and
 - (iv) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 12th day of each month, the uniform price(s) pursuant to §§ 1064.71 and 1064.72 and the producer butterfat differential, all for the preceding month;

2. Section 1064.50 is revised as follows:

§ 1064.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the De-

partment for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1064.51, paragraph (a) is revised as follows:

§ 1064.51 Class prices.

(a) *Class I milk.* The Class I price shall be the basic formula price for the second preceding month plus \$1.74.

PART 1065—MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

1. In § 1065.22, paragraph (k) is revised as follows:

§ 1065.22 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (ii) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (iii) The Class I butterfat differential for the current month; and
 - (iv) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1065.50 is revised as follows:

§ 1065.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1065.51, paragraph (a) is revised as follows:

§ 1065.51 Class prices.

(a) *Class I milk.* The Class I price shall be the basic formula price for the second preceding month plus \$1.60 for pool plants located in Zone 1, plus \$1.50 in Zone 2 and plus \$1.75 in Zone 3.

PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINNESOTA, MARKETING AREA

1. In § 1068.22, paragraph (h) is deleted, and paragraph (g) is revised as follows:

§ 1068.22 Additional duties of the market administrator.

- (g) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 15th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;
- (h) [Reserved]

2. Section 1068.51 is revised as follows:

§ 1068.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. Section 1068.53 is revised as follows:

§ 1068.53 Class I price.

Subject to the differentials provided in §§ 1068.55 and 1068.56(a), the price per hundredweight for Class I milk shall be the basic formula price for the second preceding month plus \$1.06.

PART 1069—MILK IN DULUTH-SUPERIOR MARKETING AREA

1. In § 1069.22, paragraph (i) is revised as follows:

§ 1069.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
 - (1) the fifth day of each month;
 - (i) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1069.50 is revised as follows:

§ 1069.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1069.51, paragraph (a) is revised as follows:

§ 1069.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.10.

PART 1070—MILK IN CEDAR RAPIDS-IOWA CITY MARKETING AREA

1. In § 1070.22, paragraph (j) is revised as follows:

§ 1070.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1070.50 is revised as follows:

§ 1070.50 Basic formula and class prices.

The basic formula and class prices for the month shall be as follows:

(a) *Basic formula price.* The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I

price, the resulting price shall be not less than \$4.33.

(b) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.33.

(c) *Class II price.* The Class II price shall be the basic formula price for the month.

PART 1071—MILK IN NEOSHO VALLEY MARKETING AREA

1. In § 1071.22, paragraph (j) is revised as follows:

§ 1071.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1071.50 is revised as follows:

§ 1071.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1071.51, that portion of paragraph (a) which precedes subparagraph (1) thereof is revised as follows:

§ 1071.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.54: *Provided*, That the price so determined shall be further adjusted by subtracting any amount by which such price exceeds the higher of, or adding any amount by which such price is less than the lower of the following:

PART 1073—MILK IN WICHITA, KANS., MARKETING AREA

1. In § 1073.22, paragraph (i) is revised as follows:

§ 1073.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
- (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1073.50 is revised as follows:

§ 1073.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1073.51, paragraph (a) is revised as follows:

§ 1073.51 Class prices.

(a) *Class I price.* The Class I price at plants located in Zone I shall be the basic formula price for the second preceding month plus \$1.80. Such price shall not be less than the Class I price established for the same month pursuant to Part 1064 (Greater Kansas City) of this chapter, nor more than the Greater Kansas City Class I price plus 60 cents.

PART 1075—MILK IN BLACK HILLS, S. DAK., MARKETING AREA

1. In § 1075.27, paragraph (j) is revised as follows:

§ 1075.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
- (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1075.50 is revised as follows:

§ 1075.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1075.51, paragraph (a) is revised as follows:

§ 1075.51 Class prices.

(a) *Class I milk price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.95.

PART 1076—MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

1. In § 1076.27, paragraph (j) is revised as follows:

§ 1076.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
- (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1076.50 is revised as follows:

§ 1076.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A

(92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1076.51, paragraph (a) is revised as follows:

§ 1076.51 Class prices.

(a) *Class I milk price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.50.

PART 1078—MILK IN THE NORTH CENTRAL IOWA MARKETING AREA

1. In § 1078.22, paragraph (j) is revised as follows:

§ 1078.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
- (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price for each handler and the producer butterfat differential, both for the preceding month;

2. Section 1078.50 is revised as follows:

§ 1078.50 Basic formula and class prices.

The basic formula and class prices for the month shall be as follows:

(a) *Basic formula price.* The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

(b) *Class I price.* The Class I price at plants in Zone 1 shall be the basic formula price for the second preceding month plus \$1.25. "Zone 1" means all the territory in the counties of Humboldt, Wright, Franklin, Butler, Bremer, Webster, Hamilton, Hardin, Grundy, Black Hawk, and Buchanan, all in the State of Iowa.

(c) *Class II price.* The Class II price shall be the basic formula price for the month.

PART 1079—MILK IN DES MOINES, IOWA, MARKETING AREA

1. In § 1079.27, paragraph (j) is revised as follows:

§ 1079.27 Additional duties of the market administrator

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1079.50 is revised as follows:
§ 1079.50 Basic formula and class prices.

The basic formula and class prices for the month shall be as follows:

- (a) *Basic formula price.* The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.
- (b) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.40.
- (c) *Class II price.* The Class II price shall be the basic formula price for the month.

PART 1090—MILK IN CHATTA-NOOGA, TENN., MARKETING AREA

1. In § 1090.27, paragraph (k) is revised as follows:

§ 1090.27 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price(s) pursuant to §§ 1090.71

and 1090.72 and the producer butterfat differential, all for the preceding month;

2. Section 1090.50 is revised as follows:
§ 1090.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1090.51, paragraph (a) is revised as follows:

§ 1090.51 Class prices.

- (a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.15.

PART 1094—MILK IN NEW ORLEANS, LA., MARKETING AREA

1. In § 1094.22, paragraph (k) is revised as follows:

§ 1094.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 11th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1094.50 is revised as follows:
§ 1094.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department

for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1094.51, paragraph (a) is revised as follows:

§ 1094.51 Class prices.

- (a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.85.

PART 1096—MILK IN NORTHERN LOUISIANA MARKETING AREA

1. In § 1096.27, paragraph (j) is revised as follows:

§ 1096.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1096.50 is revised as follows:
§ 1096.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1096.51, paragraph (a) is revised as follows:

§ 1096.51 Class prices.

- (a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.47.

PART 1097—MILK IN MEMPHIS, TENN., MARKETING AREA

1. In § 1097.22, paragraph (i) is revised as follows:

§ 1097.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
 - (1) The fifth day of each month;

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 13th day of each month, the uniform price(s) for each handler pursuant to §§ 1097.71 and 1097.72, the location differential for each handler and the producer butterfat differential, all for the preceding month;

2. Section 1097.50 is revised as follows:

§ 1097.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1097.51, paragraph (a) is revised as follows:

§ 1097.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.94.

PART 1098—MILK IN NASHVILLE, TENN., MARKETING AREA

1. In § 1098.22, paragraph (j) is revised as follows:

§ 1098.22 Additional duties of the market administrator.

(j) Publicly announce on or before:

(1) The fifth day of each month;

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 10th day of each month, the uniform price(s) pursuant to §§ 1098.71 and 1098.72 and the producer butterfat differential, all for the preceding month;

2. Section 1098.50 is revised as follows:

§ 1098.50 Basic formula price.

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

Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1098.51, paragraph (a) is revised as follows:

§ 1098.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.58.

PART 1099—MILK IN PADUCAH, KY., MARKETING AREA

1. In § 1099.22, paragraph (k) is revised as follows:

§ 1099.22 Additional duties of the market administrator.

(k) Publicly announce on or before:

(1) The fifth day of each month;

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1099.50 is revised as follows:

§ 1099.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

PART 1101—MILK IN KNOXVILLE, TENN., MARKETING AREA

1. In § 1101.22, paragraph (j) is revised as follows:

§ 1101.22 Additional duties of the market administrator.

(j) Publicly announce on or before:

(1) The fifth day of each month;

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1101.50 is revised as follows:

§ 1101.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1101.51, paragraph (a) is revised as follows:

§ 1101.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.70.

PART 1102—MILK IN FORT SMITH, ARK., MARKETING AREA

1. In § 1102.22, paragraph (j) is revised as follows:

§ 1102.22 Additional duties of the market administrator.

(j) Publicly announce on or before:

(1) The fifth day of each month;

(i) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 12th day of each month, the uniform price(s) pursuant to §§ 1102.71 and 1102.72 and the producer butterfat differential, all for the preceding month;

2. Section 1102.50 is revised as follows:
§ 1102.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1102.51, paragraph (a) is revised as follows:

§ 1102.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.95.

PART 1103—MILK IN MISSISSIPPI VALLEY MARKETING AREA

1. In § 1103.22, paragraph (i) is revised as follows:

§ 1103.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (ii) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (iii) The Class I butterfat differential for the current month; and
 - (iv) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1103.50 is revised as follows:

§ 1103.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1103.51, paragraph (a) is revised as follows:

§ 1103.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.47.

PART 1104—MILK IN RED RIVER VALLEY MARKETING AREA

In § 1104.27, paragraph (k) is revised as follows:

§ 1104.27 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

1. In § 1106.22, paragraph (j) is revised as follows:

§ 1106.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1106.50 is revised as follows:

§ 1106.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk

butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1106.51, paragraph (a) is revised as follows:

§ 1106.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.98.

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

1. In § 1108.27, paragraph (k) is revised as follows:

§ 1108.27 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 11th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1108.50 is revised as follows:

§ 1108.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1108.51, paragraph (a) is revised as follows:

§ 1108.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.94.

PART 1120—MILK IN LUBBOCK-PLAINVIEW, TEX., MARKETING AREA

1. In § 1120.27, paragraph (j) is revised as follows:

§ 1120.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first time for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. In § 1120.50, paragraph (a) is revised and a new paragraph (c) is added as follows:

§ 1120.50 Basic formula and class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.42.

(c) *Basic formula price.* The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

1. In § 1124.22, paragraph (i) is revised as follows:

§ 1124.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 14th day of each month, the uniform prices and the producer butterfat differential, both for the preceding month;

2. Section 1124.50 is revised as follows:
§ 1124.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for

manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1124.51, paragraph (a) is revised as follows:

§ 1124.51 Class prices.

(a) *Class I milk.* The Class I price shall be the basic formula price for the second preceding month plus \$1.95.

PART 1125—MILK IN THE PUGET SOUND, WASH., MARKETING AREA

1. In § 1125.22, paragraph (k) is revised as follows:

§ 1125.22 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 13th day of each month, the weighted average and the uniform price(s) pursuant to §§ 1125.71 and 1125.72, the location adjustments for excess milk pursuant to § 1125.81(a)(2) and the producer butterfat differential, all for the preceding month;

2. Section 1125.50 is revised as follows:
§ 1125.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1125.51, paragraph (a) is revised as follows:

§ 1125.51 Class prices.

(a) *Class I milk.* The Class I price shall be the basic formula price for the second preceding month plus \$1.85.

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

1. In § 1126.27, paragraph (j) is revised as follows:

§ 1126.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1126.50 is revised as follows:
§ 1126.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1126.51, paragraph (a) is revised as follows:

§ 1126.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.32.

PART 1127—MILK IN SAN ANTONIO, TEX., MARKETING AREA

1. In § 1127.22, paragraph (j) is revised as follows:

§ 1127.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

- (ii) The Class I butterfat differential for the current month; and
- (iii) The Class II and Class II-A prices and the corresponding butterfat differentials all for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. In § 1127.50, paragraph (b) is revised as follows:

§ 1127.50 Minimum prices and basic formula price.

(b) *Basic formula price.* The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. Section 1127.51 is revised as follows:

§ 1127.51 Class I price.

The Class I price shall be the basic formula price for the second preceding month plus \$2.74.

PART 1128—MILK IN CENTRAL WEST TEXAS MARKETING AREA

1. In § 1128.22, paragraph (j) is revised as follows:

§ 1128.22 Additional duties of the market administrator.

- (j) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class II-A prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1128.50 is revised as follows:

§ 1128.50 Basic formula and Class I price.

(a) *Basic formula price.* The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent

butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

(b) *Class I price.* Subject to the provisions of §§ 1128.52 and 1128.53, the Class I price per hundredweight shall be the basic formula price for the second preceding month plus \$2.57.

PART 1129—MILK IN AUSTIN-WACO, TEX., MARKETING AREA

1. In § 1129.27, paragraph (i) is revised as follows:

§ 1129.27 Additional duties of the market administrator.

- (i) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
- (2) The 12th day of each month, the uniform price for each handler and the producer butterfat differential, both for the preceding month;

2. Section 1129.50 is revised as follows:

§ 1129.50 Basic formula and Class I price.

(a) *Basic formula price.* The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

(b) *Class I price.* Subject to the provisions of §§ 1129.52 and 1129.53, the Class I price per hundredweight shall be the basic formula price for the second preceding month plus \$2.70.

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

1. In § 1130.22, paragraph (i) is revised as follows:

§ 1130.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1130.50 is revised as follows:

§ 1130.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

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

§ 1130.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$3.07.

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. In § 1131.22, paragraph (k) is revised as follows:

§ 1131.22 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 11th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1131.50 is revised as follows:

§ 1131.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound as Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1131.51, the part of paragraph (a) that precedes subparagraph (1) is revised as follows:

§ 1131.51 Class prices.

(a) *Class I milk price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.52, and shall be increased or decreased by a "supply-demand adjustment" of not more than 50 cents computed as follows:

**PART 1132—MILK IN TEXAS
PANHANDLE MARKETING AREA**

1. In § 1132.27, paragraph (j) is revised as follows:

§ 1132.27 Additional duties of the market administrator.

- (j) Publicly announce on or before:
- (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1132.50 is revised as follows:

§ 1132.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the mid-

point of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1132.51, paragraph (a) is revised as follows:

§ 1132.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.25.

**PART 1133—MILK IN THE INLAND
EMPIRE MARKETING AREA**

1. In § 1133.22, paragraph (k) is revised as follows:

§ 1133.22 Additional duties of the market administrator.

- (k) Publicly announce on or before:
- (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
 - (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. In § 1133.50, the first paragraph of the text preceding paragraph (a), and paragraph (a) are revised as follows:

§ 1133.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the second preceding month plus \$1.95.

**PART 1134—MILK IN THE WESTERN
COLORADO MARKETING AREA**

1. In § 1134.22, paragraph (i) is revised as follows:

§ 1134.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
- (1) The 5th day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding months; and
 - (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1134.50 is revised as follows:

§ 1134.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1134.51, paragraph (a) is revised as follows:

§ 1134.51 Class prices.

(a) *Class I milk.* The Class I price shall be the basic formula price for the second preceding month plus \$2.

**PART 1136—MILK IN THE GREAT
BASIN MARKETING AREA**

1. In § 1136.22, paragraph (k) is revised as follows:

§ 1136.22 Additional duties of the market administrator.

- (k) Publicly announce on or before:
- (1) The fifth day of each month;
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
 - (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. In § 1136.50, paragraph (a) is revised as follows:

§ 1136.50 Class prices.

(a) *Class I milk price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.90.

3. Section 1136.51 is revised as follows:

§ 1136.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. In § 1137.22, paragraph (i) is revised as follows:

§ 1137.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
 - (1) The fifth day of each month;
 - (ii) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (iii) The Class I butterfat differential for the current month; and
 - (iv) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and
- (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1137.50 is revised as follows:

§ 1137.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the pur-

pose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1137.51, paragraph (a) is revised as follows:

§ 1137.51 Class prices.

(a) *Class I milk.* The Class I price shall be the basic formula price for the second preceding month plus \$2.30.

PART 1138—MILK IN RIO GRANDE VALLEY MARKETING AREA

1. In § 1138.22, paragraph (i) is revised as follows:

§ 1138.22 Additional duties of the market administrator.

- (i) Publicly announce on or before:
 - (1) The fifth day of each month:
 - (i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;
 - (ii) The Class I butterfat differential for the current month; and
 - (iii) The Class II price and Class II butterfat differential, both for the preceding month; and
 - (2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

2. Section 1138.50 is revised as follows:

§ 1138.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

3. In § 1138.51, paragraph (a) is revised as follows:

§ 1138.51 Class prices.

(a) *Class I price.* The Class I price at plants located in Zone I (comprising all the counties in the marketing area except those specified in § 1138.52 as comprising Zones II and III) shall be the basic formula price for the second preceding month plus \$2.35.

[FR Doc.72-1277 Filed 1-27-72; 8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
[14 CFR Part 71]

[Airspace Docket No. 72-EA-9]

TRANSITION AREA
Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the New York, N.Y., transition area (36 F.R. 2243).

A revised VOR-A instrument approach procedure for Kupper Airport, Manville, N.J., will require the aforesaid alteration.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of New York, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to amend the New York, N.Y., 700-foot floor transition area as follows: Following the phrase, "to the point of beginning;" add, "including that airspace 5 miles N. and 3 miles S. of the Solberg, N.J. VORTAC 298° radial extending from the VORTAC to a point 10 miles NW. of the VORTAC."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on January 17, 1972.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

[FR Doc.72-1267 Filed 1-27-72;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-35]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to alter the control zone and transition area at Hibbing, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3158 Des Plaines Avenue, Room 18, Des Plaines, IL 60018.

Since designation of controlled airspace at Hibbing, Minn., the Hibbing "H" facility was decommissioned and the instrument approach based on this facility was canceled. A review of the designated airspace in the Hibbing area results in the elimination of the control zone extension to the southwest. We also find it is operationally desirable to extend the 1,200-foot transition area to cover the small portion of uncontrolled airspace between V430 and the Chisholm-Hibbing Airport.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

HIBBING, MINN.

That airspace within a 5-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50'15" W.); within 2 miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone

to 15 miles northwest of the VORTAC; within 1½ miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to the VORTAC.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

HIBBING, MINN.

That airspace extending upward from 700 feet above the surface within an 11½-mile radius of Chisholm-Hibbing Airport (latitude 47°23'18" N., longitude 92°50'19" W.); within 3 miles each side of the Hibbing VORTAC 313° radial, extending from the 11½-mile radius area to 23 miles northwest of the VORTAC; within an 11-mile radius of Eveleth-Virginia Airport (latitude 47°25'55" N., longitude 92°30'03" W.); and within 9½ miles north and 4½ miles south of the Eveleth VOR 092° radial, extending from the 11-mile radius area to 18½ miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 27-mile radius of the Hibbing VORTAC, extending from the Hibbing VORTAC 196° radial clockwise to the Hibbing VORTAC 340° radial; within a 13-mile radius of Hibbing VORTAC extending from the Hibbing VORTAC 095° radial clockwise to the Hibbing VORTAC 196° radial; within 4½ miles northeast and 9½ miles southwest of the Hibbing VORTAC 313° radial, extending from the 27-mile radius area to 33½ miles northwest of the VORTAC, excluding the portion which overlies the Duluth, Minn. transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on January 6, 1972.

LYLE K. BROWN,
Director,
Great Lakes Region.

[FR Doc.72-1266 Filed 1-27-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-NE-11]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation regulations so as to redesignate the Whitefield, N.H., transition area (36 F.R. 2293).

In order to provide airspace protection for IFR arrival and departure procedures at the Whitefield Regional Airport, Whitefield, N.H., it will be necessary to redesignate the Whitefield 700-foot transition area and to designate a new Whitefield 1,200-foot transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA 01803. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No

hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Whitefield, N.H., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation regulations so as to delete the description of the Whitefield, N.H., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface, within an arc of a 25.5-mile radius circle centered on the Whitefield, N.H. Regional Airport (44°21'53" N., 71°33'07" W.) extending clockwise between the 012° and 160° bearings from the Whitefield Airport; within an arc of a 29.5-mile radius circle centered on the Whitefield Airport extending clockwise between the 160° and 218° bearings from the Whitefield Airport; within an arc of a 12.5-mile radius circle centered on the Whitefield Airport extending clockwise between the 218° and 294° bearings from the Whitefield Airport; within an arc of a 24-mile radius circle centered on the Whitefield Airport extending clockwise between the 294° and 337° bearings from the Whitefield Airport; within an arc of a 17-mile radius circle centered on the Whitefield Airport extending clockwise between the 337° and 012° bearings from the Whitefield Airport; within 3.5 miles each side of the 267° bearing from the Dalton, N.H. NDB extending from the 12.5-mile radius area to 11.5 miles west of the NDB, excluding that airspace contained within the Berlin, N.H. and North Conway, N.H. transition areas.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Whitefield, N.H., 1,200-foot floor transition area described as follows:

That airspace extending upward from 1,200 feet above the surface within 5 miles each side of a direct line extending from the Dalton, N.H. NDB (44°21'43" N., 71°41'08" W.) to the North Conway, N.H. NDB (44°01'26" N., 71°06'59" W.); within 5 miles each side of a direct line extending from the Dalton, N.H. NDB to the Newport, Vt. NDB (44°57'10" N., 72°10'40" W.); within 5 miles each side of a direct line extending from the Dalton, N.H. NDB to the Montpelier, Vt. VOR; within 5 miles each side of a direct line extending from the Dalton, N.H. NDB to the Lebanon, N.H. VOR; and within 4.5 miles north and 9.5 miles south of the 267° bearing from the Dalton, N.H. NDB extending from the Dalton, N.H. NDB to a point 18.5 miles west, excluding those portions that coincide with the Burlington, Vt. and Lebanon, N.H. 1,200-foot transition areas.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348)

and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Mass., on January 13, 1972.

W. E. CROSBY, JR.
Deputy Director,
New England Region.

[FR Doc. 72-1271 Filed 1-27-72; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-166]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Huntington, W. Va., control zone (36 F.R. 2090) and transition area (36 F.R. 2205).

Revision of the instrument approach procedures for Tri-State Airport (Walker-Long Field) will require the aforesaid alterations.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Huntington, W. Va., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Huntington, W. Va. control zone and substitute the following in lieu thereof:

Within a 6-mile radius of the center 38°-22'00" N., 82°33'20" W. of Tri-State Airport (Walker-Long Field), Huntington, W. Va. and within 1.5 miles each side of the

Tri-State Airport (Walker-Long Field) ILS localizer east course, extending from the 6-mile radius zone to 5 miles east of the Shoals, W. Va., FM.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Huntington, W. Va. 700-foot floor transition area and substitute the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center 38°22'00" N., 82°33'20" W. of Tri-State Airport (Walker-Long Field) Huntington, W. Va.; within 2 miles each side of the Tri-State Airport (Walker-Long Field) localizer east course, extending from the 11-mile radius area to 7 miles east of the Shoals, W. Va., FM; and within 3 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer west course, extending from the 11-mile radius area to 8.5 miles west of the OM.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on January 18, 1972.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

[FR Doc. 72-1268 Filed 1-27-72; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-168]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Honesdale, Pa., transition area over Cherry Ridge Airport, Honesdale, Pa.

A new VOR-A instrument approach procedure to the airport requires the aforesaid designation.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record

for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Honesdale, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Honesdale, Pa. 700-foot floor transition area as follows:

HONESDALE, PENNSYLVANIA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 41°30'52" N., 75°15'10" W. of Cherry Ridge Airport, Honesdale, Pa., and within 5 miles each side of the Wilkes-Barre VORTAC 054° radial extending from the 6.5-mile radius area to 10 miles north-east of the Wilkes-Barre VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on January 17, 1972.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

[FR Doc. 72-1269 Filed 1-27-72; 8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-171]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Somerset, Pa., transition area over Somerset County Airport, Somerset, Pa.

New NDB and LOC instrument approach procedures developed for the airport will require designation of a 700-foot floor transition area to provide controlled airspace protection for aircraft executing the instrument approach procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Somerset, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation regulations so as to designate a Somerset, Pa. 700-foot floor transition area as follows:

SOMERSET, PA.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the center (40°02'15" N., 79°01'00" W.) of Somerset County Airport, Somerset, Pa. and within 3.5 miles each side of the 056° bearing from the Stoystown RBN (40°05'17" N., 78°55'20" W.) extending from the 9.5-mile radius area to 11 miles northeast of the RBN, excluding the portion that coincides with the Johnstown, Pa. transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on January 17, 1972.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

[FR Doc.72-1270 Filed 1-27-72; 3:48 am]

[14 CFR Part 93]

[Docket No. 11678; Notice No. 72-2]

**O'HARE INTERNATIONAL AIRPORT,
CHICAGO, ILL.**

**Proposed Increase in IFR Operations
Per Hour**

The Federal Aviation Administration is considering amending Part 93 of the Federal Aviation Regulations to increase the hourly number of allocated IFR operations (takeoffs and landings) that may be reserved for the specified classes of users at O'Hare International Airport, Chicago, Ill.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel: Attention Rules Docket GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before February 28, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

The special air traffic rule for High Density Traffic Airports was extended until October 25, 1972, by an amendment effective October 25, 1971 (36 F.R. 16574). That amendment also partially suspended the allocation and reservation requirements for operation into and out of Kennedy and O'Hare International Airports. This partial suspension was in recognition of the fact that traffic conditions at the named airports had improved to such an extent that the quota system was required only during peak traffic periods.

As a result of continued study and review of the traffic situation at the five High Density Traffic Airports, it appears that there has been a modest increase in traffic handling capability at O'Hare Airport. This increase may be attributed to introduction of new ATC equipment, certain airport improvements, and some progress in ATC facility staffing. Because of these factors, the FAA believes that a modest increase in quotas at O'Hare Airport may be justified at this time.

In consideration of the foregoing, it is proposed that the table titled IFR Operations Per Hour, in paragraph (a) of § 93.123 of the Federal Aviation Regulations be amended by deleting the numbers 115, 10 and 10 in the column for O'Hare Airport and by substituting therefor the numbers 130, 12, and 12.

This amendment is proposed under the authority of sections 103, 307, 313, and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348, 1354, and 1421); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and section 1.4(b), Part 1 of the Regulations of the Office of the Secretary (49 U.S.C. 14(b)).

Issued in Washington, D.C., on January 26, 1972.

RAYMOND G. BELANGER,
Acting Director,
Air Traffic Service.

[FR Doc.72-1328 Filed 1-27-72; 8:52 am]

**ENVIRONMENTAL PROTECTION
AGENCY**

[40 CFR Part 61]

**NATIONAL EMISSION STANDARDS
FOR HAZARDOUS AIR POLLUTANTS**

**Notice of Cancellation of Public
Hearing**

On December 16, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 23931, December 16, 1971) announcing public hearings on proposed emission standards for hazardous air pollutants under section 112(b) (1) (B) of the Clean Air Act, as amended by Public Law 91-604. Hearings were scheduled in New York City on January 18, 1972, in Kansas City, Mo., on February 1, 1972, and in Los Angeles on February 15, 1972. Persons wishing to make a statement were requested to indicate their intention to do so no later than 15 days before the appropriate hearing.

Due to lack of requests to participate, the hearing in Kansas City is canceled. Interested persons are invited to participate in the hearing in Los Angeles on February 15, 1972. Persons desiring to participate should consult the December 16, 1971, FEDERAL REGISTER for details on the time and place of the hearing, notification requirements, and other pertinent information. Statements may be made in person or submitted in writing for the record of the hearing.

Dated: January 26, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-1325 Filed 1-26-72; 10:43 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

[Docket No. RM-50-2]

**LICENSING OF PRODUCTION AND
UTILIZATION FACILITIES**

**Notice of Hearing on Effluents From
Light Water-Cooled Nuclear Power
Reactors**

Notice is hereby given that in accordance with this Board's order of January 13, 1972, the hearing in the above captioned matter will resume at 10 a.m., on February 23, 1972. The location of the hearing has been changed from Germantown, Md. to: Woodmont Building, Room 100, 8120 Woodmont Avenue, Bethesda, MD 20014.

Dated this 24th day of January 1972,
at Washington, D.C.

ALGIE A. WELLS,
Chairman.

[FR Doc.72-1243 Filed 1-27-72; 8:48 am]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Cost of Living Council Ruling 1972-7; Price Commission Ruling 1972-24]

CERTAIN REVOLVING CREDIT PROGRAMS AS NEW SERVICES

Cost of Living Council and Price Commission Ruling

Facts. Company A, a retail clothing merchant, currently makes credit sales under a program in which the buyer is billed in full for the merchandise within 30 days of the sale and the bill is payable in full upon receipt. There are no carrying charges. Company A wishes to institute a revolving charge plan under which the customer would be required to make monthly payments of 10 percent of the unpaid balance due on his account or \$20 (whichever is smaller) plus a monthly carrying charge. The company would also retain the old credit practice for customers who still desire that procedure.

Issue. Is the revolving charge plan a new service within § 300.409 of the Economic Stabilization Regulations?

Ruling. The revolving credit plan effects a substantially different result from the previous credit program offered by Company A and therefore it is a new service. Company A may charge a carrying charge equal to the average price charged by persons offering comparable services in the same marketing area. Section 300.409(c)(2) of the Economic Stabilization Regulations. The portion of the carrying charge that is interest is not subject to the regulations of the Price Commission because it is not a price or rent. The Company, however, will be expected to comply with the interest guidelines published by the President's Committee on Interest and Dividends.

This ruling has been approved by the General Counsel of the Price Commission and the Cost of Living Council.

Dated: January 24, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: January 24, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-1336 Filed 1-27-72; 8:52 am]

[Price Commission Ruling 1972-23]

SALES OF CERTAIN PROCESSED LIVESTOCK FEED

Price Commission Ruling

Facts. Company A is a miller engaged in the business of processing wheat, a

raw agricultural product. This milling process yields approximately 74 percent flour and 26 percent millfeed. Millfeed is used as a feed for livestock and is sold at prices which historically have been lower in warmer months when livestock is able to feed on pasture and higher in colder months when pasture becomes unavailable. Flour prices in general reflect the cost Company A must pay for wheat. In calculating flour prices, the milling industry, including Company A, traditionally treats revenues from millfeed sales as a credit against the cost of wheat. The anticipated future sales volume of millfeed is treated as a deduction from the cost of wheat and the flour price is based on the net wheat cost.

Issue. May Company A continue to price and account for millfeed as it has in the past?

Ruling. Yes. Because of these unique circumstances, a manufacturer producing flour or other products by the milling of wheat or a similar resource may sell the resulting byproduct, millfeed or other livestock feed, at such prices as are from time to time obtainable in the market place, provided that in determining "allowable costs" incurred in the manufacture of flour, for the purposes of § 300.12 of the Economic Stabilization Regulations, the manufacturer of flour shall deduct from the cost of the wheat the anticipated sales price to be received from the sale of the millfeed.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 24, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: January 24, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-1331 Filed 1-27-72; 8:52 am]

[Price Commission Ruling 1972-25]

PROMINENT DISPLAY OF BASE PRICE

Price Commission Ruling

Facts. Company A is a retail grocer with sales of over \$200,000 per year. Due to increased wholesale costs of a number of items, Company A wishes to increase its prices after January 2, 1972. Company A has posted several large signs in its store stating that the base prices of all of its food products are available in the manager's office.

Issue. Has Company A satisfied the base price posting requirements of § 300.13(b) of the Economic Stabilization Regulations?

Ruling. Before Company A may make its proposed price increases, it must prominently display in its place of sale

the base prices with respect to all of its nonexempt food products. Section 300.13 (a) and (b) of the Economic Stabilization Regulations. A sign merely directing the customer to a list maintained in the manager's office (or other office) is not a "prominent display" of base prices.

To meet the requirement of "prominent display" the grocer must present the base prices on the selling floor to the public in such a way that the food prices are readily accessible and can be understood by a person of average intelligence. For example, the base prices may be shown in a price book or other publication placed at such locations on the selling floor that any member of the public can conveniently refer to the publication without having to request to see it. Product identification information must be available in or with the publication so that a person can identify the item of merchandise at the point of sale and find the price of that item in the publication without undue difficulty. Signs must be available in each department indicating the location of the base price list for food and food-related items.

If a retailer wishes to present base prices to the public in a different manner which is similarly accessible, convenient, and understandable he may do so. For example, the retailer may display base prices side by side with the actual selling price at the point of sale. Or the retailer may display the base prices on a bulletin board or sign near the point of sale.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 21, 1972.

Approved: January 21, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-1332 Filed 1-27-72; 8:52 am]

[Price Commission Ruling 1972-26]

POSTING BASE PRICES—AUTOMOBILE DEALERS

Price Commission Ruling

Facts. X, a new car dealer desires to comply with the price regulations and post his prices under Economic Stabilization Regulations § 300.13(b). He plans to post the "sticker price" of cars sold during the base period.

Issue. Is X correct in posting the "sticker price" rather than the price at which he actually sold new cars during the base period?

Ruling. No, X must post his actual sale prices. Depending on his pricing policies these may or may not be the "sticker price".

Section 1232 of title 15, U.S.C. requires auto manufacturers to affix to the windshield or window of each automobile a label containing the suggested retail price for the automobile and its accessories and requires this label to remain affixed until the automobile has reached the ultimate purchaser. This price is what is commonly referred to as the "sticker price." The actual price for a new automobile may be considerably less than the "sticker price" and may vary from dealer to dealer.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 24, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: January 24, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc. 72-1333 Filed 1-27-72; 8:52 am]

[Price Commission Ruling 1972-27]

INVESTIGATION OF PROFIT MARGIN CALCULATION

Price Commission Ruling

Facts. While investigating an alleged price violation by X company an Internal Revenue Service Agent has discovered that X has no formal published financial statements. The statements he has been shown have not been audited.

Issue. May the agent look beyond the financial statement to the books and records of the business to verify the business' base period profit margin?

Ruling. Yes. In defining "profit margin" in § 300.5 two requirements are imposed. That is, the profit margin calculation must be in accordance with published financial statements as well as consistent with generally accepted accounting principles. Thus, when an investigating agent has reason to think that the financial statements he has been shown are not in accordance with the second requirement, he may look beyond the statements to verify or establish the true profit margin.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 24, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: January 24, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc. 72-1334 Filed 1-27-72; 8:52 am]

[Price Commission Ruling 1972-28]

POSTING PHARMACEUTICAL PRICES

Price Commission Ruling

Facts. X owns and operates a prescription pharmacy in State Y. The laws of state Y prohibit the posting of prescription drug prices and even if it did not, the pharmaceutical association to which X belongs considers it a violation of ethics to post prices.

Issue. Is X a "retailer" under the Price Regulations and so must post his prices? Must he do so if such posting would violate state law?

Ruling. The dispensing of prescription drugs is regarded as a retail transaction and thus would be subject to the requirements of § 300.13(b) of the Price Commission regulations that base prices be posted before January 2, 1972. The fact that a professional pharmacist may be employed to dispense the drugs is considered incidental to the actual sale. This position is consistent with cases that have held that, although professionals may be involved in the dispensing of prescription medicine, the person for whom the medicine is prescribed purchases a commodity in interstate commerce. Northern California Pharmaceutical Association v. United States, 306 F. 2d 379 (C.A. 9, 1962), cert. denied, 371 U.S. 862; United States v. Utah Pharmaceutical Association, 201 F. Supp. 29 (D. Utah, 1962), appeal dismissed for lack of jurisdiction, 306 F. 2d 493 (C.A. 10, 1962), aff'd., 371 U.S. 24.

The Price Commission Regulations were promulgated under the authority of an act of Congress (Economic Stabilization Act of 1970). Consequently, such regulations control when there is a conflict with the State constitution or laws. Under Article VI of the U.S. Constitution (Supremacy Clause) a State statute is subordinated to Federal statutes when there is a conflict between the two. Accordingly, the regulations of the Price Commission which were promulgated pursuant to an act of Congress, prevail over conflicting State law. Florida v. Mellon, 273 U.S. 12, 71 L. Ed. 511, 47 S. Ct. 265 (1926) (Federal revenue act controls when State constitution prohibits imposition of inheritance tax). Therefore, X must comply with the Price Regulations requiring posting of prices despite State laws to the contrary.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: January 24, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: January 24, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc. 72-1335 Filed 1-27-72; 8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 240, S 490, S 1252, S 3799, SAC 078394,
SAC 080235]

CALIFORNIA

Order Providing for Opening of Public Lands

JANUARY 20, 1972.

1. In exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, the following described lands have been conveyed to the United States:

HUMBOLDT MERIDIAN

S 1252

T. 1 N., R. 4 E.,
Sec. 21, SW $\frac{1}{4}$ NE $\frac{1}{4}$.

MOUNT DIABLO MERIDIAN

S 240

T. 45 N., R. 1 E.,
Sec. 3, lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 4, S $\frac{1}{2}$ NE $\frac{1}{4}$.
T. 46 N., R. 1 E.,
Sec. 34, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

S 490

T. 8 N., R. 2 W.,
Sec. 6, lots 6 and 7.

T. 8 N., R. 3 W.,
Sec. 1, SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

S 3799

T. 19 S., R. 12 E.,
Sec. 1, lots 1, 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 5, lots 1, 2, 3, 4, SE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 8, lot 1;
Sec. 9, lots 1, 2, 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 10, NW $\frac{1}{4}$;
Sec. 11, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 12, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 19 S., R. 13 E.,
Sec. 6, lots 3, 4, 5, 6, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 7, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 18 S., R. 12 E.,
Sec. 31, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$.

SACRAMENTO 078394

T. 36 N., R. 4 E.,
Sec. 21, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 28, W $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 36 N., R. 5 E.,
Sec. 7, S $\frac{1}{2}$ lot 5.

SACRAMENTO 080235

T. 45 N., R. 1 E.,
Sec. 5, lots 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 46 N., R. 1 E.,
Sec. 32, SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate approximately 3,236.07 acres in Humboldt, Napa, Siskiyou, Shasta, Fresno, and San Benito Counties.

2. The above-described grazing lands have been acquired to block up Federal

lands to further Federal programs providing multiple-use management of all the resources.

3. Subject to valid existing rights, the provision of existing withdrawals, and the requirement of applicable law, the lands will at 10 a.m. on February 29, 1972 be open to operation of the public land laws. All valid applications received at or prior to February 29, 1972 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands will be open to location under the U.S. mining laws and to applications and offers under the mineral leasing laws at 10 a.m. on February 29, 1972.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

ELIZABETH H. MIDTBY,
Acting Chief, Branch of
Lands & Minerals Operations.

[FR Doc.72-1272 Filed 1-27-72; 8:48 am]

[Montana 20510]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 20, 1972.

The Forest Service, U.S. Department of Agriculture, has filed application, M 20510, for the withdrawal of national forest land described below from mineral location and entry under the mining laws but not from leasing under the mineral leasing laws, subject to existing valid claims.

The applicant desires the land to protect existing fire lookout towers from mineral location and entry.

For a period of 30 days from the date of publication of this notice all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 316 North 26th Street, Billings, MT 59101.

The Department's regulation (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent

management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

LOLO NATIONAL FOREST

White Mountain Lookout

T. 12 N., R. 24 W.,
Sec. 20, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.

Baldy Lookout

T. 22 N., R. 25 W.,
Sec. 32, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.

Patrick's Knob Lookout

T. 19 N., R. 26 W.,
Sec. 25, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$.

Big Hole Peak Lookout

T. 21 N., R. 27 W.,
Sec. 4, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Eddy Mountain Lookout

T. 21 N., R. 28 W.,
Sec. 33, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$.

Priscilla Peak Lookout

Unsurveyed, but which probably will be when surveyed:

T. 22 N., R. 28 W.,
Sec. 2, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Clark Mountain Lookout

T. 21 N., R. 29 W.,
Sec. 28, S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$.

Cougar Peak Lookout

T. 23 N., R. 30 W.,
Sec. 24, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$.

Driveway Peak Lookout

Unsurveyed, but which probably will be when surveyed:

T. 21 N., R. 31 W.,
Sec. 9, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 90 acres and are located in Sanders and Mineral Counties, Mont.

ROLAND F. LEE,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.72-1273 Filed 1-27-72; 8:48 am]

National Park Service

GLACIER NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Secretary of the Interior, through the Director of the National Park Service, proposes to issue a concession permit with the Whitefish Clinic authorizing it to provide concession facilities and services for the public at Glacier National Park, Mont., for a period of one (1) year from January 1, 1972, through December 31, 1972. The foregoing concessioner has performed its obligations under its current permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposals to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Glacier National Park, West Glacier, Mont. 59936, for information as to the requirements of the proposed permit.

Dated: December 20, 1971.

WILLIAM J. BRIGGLE,
Superintendent.

[FR Doc.72-1290 Filed 1-27-72; 8:49 am]

NATIONAL CAPITAL PARKS

Notice of Intention to Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Edgewater Riding Academy, Inc., authorizing it to provide concession facilities and services for the public within National Capital Parks, for a period of nine (9) months from January 1, 1972, through September 30, 1972.

The foregoing concessioner has performed its obligations under the expired contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. Under the Act cited above, however, the Secretary is also required to consider and evaluate all pro-

posals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: January 14, 1972.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.72-1289 Filed 1-27-72; 8:49 am]

Office of Coal Research
ENVIRONMENTAL STATEMENTS
Issuance of Directives Regarding
Preparation

There are set forth below the procedures of the Office of Coal Research, Department of the Interior, 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).

These procedures supplement the departmental directives published September 27, 1971 (36 F.R. 19343).

HOLLIS M. DOLE,
Assistant Secretary
of the Interior.

JANUARY 18, 1972.

PROCEDURES FOR THE PREPARATION OF
ENVIRONMENTAL IMPACT STATEMENTS

I. Purpose of Procedures. The purpose of these procedures is to enable the Office of Coal Research (OCR) to discharge its responsibilities with respect to the National Environmental Policy Act of 1969 (Public Law 90-190) and to provide guidance to the office and its staff in the determination of those OCR major actions which significantly affect the human environment and in the preparation of environmental statements for such actions.

II. Policy. The Office of Coal Research will discharge its responsibilities in compliance with the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852, January 1, 1970); section 2(f) of Executive Order No. 11514 (March 5, 1970); the guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) (Appendix A), Bulletin No. 72-6 of the Office of Management and Budget (September 14, 1971) and Ch. 2, Statement of Environmental Impact, Part 516 of the Department of the Interior Manual (516 DM2).

III. Determination of OCR Actions which (A) require (B) do not require Environmental Statements. A. OCR recognizes that the following actions will ordinarily require the preparation of environmental statements.

1. The erection of a pilot plant, the purpose of such plant being to obtain design data for a demonstration plant.
2. The erection of a demonstration plant, the purpose of such plant being to test out significant parts of a process on a semicommercial scale to prove out the operation for full commercialization.
3. The substantial alteration of an OCR pilot or demonstration plant shall require

consideration of the action by OCR to determine whether the changes constitute a major Federal action significantly affecting the quality of the human environment. If this alteration involves significant impact, alternatives will be considered and an environmental statement prepared.

B. The following OCR actions will not ordinarily require the preparation of an environmental statement.

- a. Laboratory work which takes place in a laboratory.
- b. Bench scale work which may combine several laboratory experiments, but other than taking more space, is confined to a building with other like experiments.
- c. A process development unit which is built near a laboratory to use its facilities, such as heat, water, steam, electricity, etc.
- d. A commercial application which uses OCR developed technology but does not use Federal funds or direction.
- e. Engineering and process design which does not involve any site action.

IV. OCR designation of responsibilities.

A. The environmental officer shall be responsible for the preparation and coordination of environmental statements and comments on environmental statements sent to the Office of Coal Research by other offices and agencies.

B. The environmental officer shall have the following specific duties:

1. Obtain the information needed to prepare environmental statements.
 2. Consult with appropriate Department of the Interior bureaus and offices, other Federal agencies, and other appropriate sources of environmental expertise not available within OCR.
 3. Recommend to the Director of Coal Research, where necessary, the hiring of specialists in disciplines and areas of expertise not otherwise available to OCR.
 4. Recommend contract environmental research, where necessary.
 5. Assist in the development of the scope of the study, make an estimate of the probable cost, and monitor contractor performance.
 6. Consult with the Solicitor's Office, where necessary, with respect to identifying actions which require environmental statements and legal questions which may arise in connection with the preparation and processing thereof.
 7. Prepare environmental statements in accordance with the form and content specified in the departmental manual (516.2.6).
 8. Prepare draft environmental statements which reflect and consider the information obtained.
 9. Transmit such draft environmental statement after clearance by the Assistant Secretary—Program Policy to Federal, State, or local agencies having special jurisdiction or expertise and to appropriate private organizations for evaluation and comment.
 10. Give public notice of the availability of such draft environmental statement and invite comments.
 11. Consult, where appropriate, with those providing comments.
 12. Prepare a final environmental statement which recognizes and responds to relevant comments.
 13. Transmit copies of the final environmental statement after clearance by the Assistant Secretary—Program Policy to all those from whom comments were solicited and received.
- V. **Procedures.** A. OCR will follow the instructions contained in the departmental manual and any revisions thereof (516.2.6).
- B. The body of the statement shall contain the following eight sections:

1. Description of the proposal.
2. Description of the environment.
3. The environmental impact of the proposed action.
4. Mitigating measures included in the proposed action.
5. Any adverse effects which cannot be avoided should the proposed be implemented.
6. The relationships between local short-term uses of man's environment and maintenance and enhancement of long-term productivity.
7. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.
8. Alternatives to the proposed action.
9. Consultation and coordination with others:

1. The Office of Coal Research in obtaining the view of the Department of the Interior's bureaus and offices and of other Federal, State, and local agencies shall utilize to the maximum extent practical existing mechanisms that have been established to expedite a response.

2. OCR shall develop early in the development of a proposal, working-level consultations with those in the Department of the Interior who have inputs needed in the preparation of draft environmental statements.

3. OCR shall circulate such draft statements to all of the Department's bureaus and offices having delegated jurisdiction or special environmental expertise and these comments shall be attached to the final environmental statement.

4. Other Federal and Federal-State agencies having jurisdiction by law or special environmental expertise shall be consulted by OCR in connection with the preparation of environmental statements.

5. Appendix II of the CEQ guidelines shall be used by OCR to determine those agencies from which consultation and comments should be solicited.

6. The Environmental Protection Agency shall be consulted and comments requested on matters related to air, or water quality standards, noise control, solid waste disposal or other matters within the authority of EPA.

7. A period of not less than 45 days will be allowed for comments on draft environmental statements. Where time is critical this may be reduced to 30 days except that EPA will always be allowed 45 days for comment. If an agency does not request a time extension and does not reply within the time period OCR will presume that it has no comment to make.

8. State and local agency review shall be obtained in the manner provided in the departmental manual (516.2.7C).

9. Timely information shall be provided the public by OCR as to environmental impact and alternate courses of action.

10. Draft and environmental statements shall be made available for public inspection by the OCR Environmental Officer as specified in the departmental manual (516.2.8C).

VI. **The Role of the Environmental Statement in the OCR review and decisionmaking process.** 1. These procedures are intended to insure that the environmental aspects of a proposed action receive balancing and consideration throughout the decision-making process.

2. In order that the evaluation process may have meaningful application to a proposal, OCR will apply its environmental statement procedures as soon as possible in the decisionmaking process.

[FR Doc.72-1252 Filed 1-27-72; 8:48 am]

Office of the Secretary

[DES 72-3]

PROPOSED COAL GASIFICATION
PILOT PLANTNotice of Availability of Draft
Environmental Statement

Proposed coal gasification pilot plant to demonstrate feasibility of converting coal to substitute natural gas.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Mines, Department of the Interior, has prepared a draft environmental statement concerning the construction and operation of a pilot plant to test the Bureau's Synthane process to convert coal to a clean-burning gaseous fuel. Written comments are invited for a period of 30 days after the publication of this notice.

The proposed research to be conducted includes the construction of a unit on Federal property near Pittsburgh, Pa., which is capable of processing approximately 75 tons of coal per day. Sufficient information would be developed to evaluate the economic feasibility of the process and to identify and resolve any environmental problems associated with the operations.

Single copies of the Draft Statement are available from:

Director, Bureau of Mines, Room 4614, Department of the Interior, Washington, D.C. 20240.

Acting Research Director, Pittsburgh Energy Research Center, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA 15213.

In requesting this document, please refer to the Statement Number above.

Dated: January 24, 1972.

JOHN W. LARSON,

Assistant Secretary of the Interior.

[FR Doc.72-1365 Filed 1-27-72; 8:53 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

INSPECTION OF DRY MILK PLANTS

Memorandum of Understanding

Memorandum of understanding between the Food and Drug Administration, DHEW and the Consumer and Marketing Service, USDA on the inspection of dry milk plants¹ approved by USDA for inspection and grading and operating under the USDA Salmonella Surveillance Program.

The Food and Drug Administration (hereinafter called FDA) and the U.S. Department of Agriculture have long recognized the need for exchange of information and coordination of activities in order to avoid duplication of efforts in the inspection and sampling coverage of dry milk plants. An informal working agreement between the Deputy Administrator of Consumer Mar-

¹ Includes plants manufacturing dry buttermilk, dry whey, casein, caseinate, lactose, etc.

keting Service (hereinafter called CMS) and the Associate Commissioner for Compliance of FDA has been in effect since May 1968.

Purpose. To update and formalize the pertinent provision of the 1968 understanding with respect to routine Salmonella inspection and sampling in dry milk plants approved for USDA inspection and grading, and operating under the USDA Quarterly Salmonella Surveillance Program. This understanding does not amend nor supersede the memorandum of understanding of November 1970 covering Instant Non-Fat Dry Milk Plants operating under continuous USDA-C&MS inspection.

I. Services to be performed. A. C&MS will:

1. Supply FDA with copies of the quarterly revisions of the publication "Dairy Plants Surveyed and Approved for USDA Grading Service." Dry milk plant approval includes participation in the Salmonella Surveillance Program.

2. Supply FDA with a list of dry milk plants using the USDA Salmonella Surveillance Program. The list will be kept up to date by adding and deleting names when changes in status occur. The list will be reviewed and reissued annually.

3. Report to FDA, by telephone, positive product samples when found in two or more production lots of finished products from plants engaged in commercial distribution. The telephoned report will be followed by written confirmation.

4. Report to FDA any single positive product sample whether taken from the finished product or the processing line.

5. Report all results, both positive and negative, of follow-up tests on positive product samples.

6. Advise FDA of positive environmental samples whenever the positive tests are repetitive.

7. Report any conclusions as to whether the positive product result was an isolated finding, or if not, whether the apparent source of contamination was detected and corrected.

8. Advise FDA of any plant which fails to cooperate with C&MS in effecting Salmonella control in the plant or products.

B. FDA will:

1. Not institute plant inspections or in-plant sampling in any plant operating under USDA inspection and grading, or participating in the USDA Salmonella Surveillance Program except when C&MS reports positive samples on two or more production lots from plants engaged in commercial distribution.

2. Institute sampling of commercially distributed products when two or more production lots are identified with positive results, when such course is deemed advisable. FDA will not duplicate USDA efforts by resampling the same stocks at the same locations previously examined by USDA.

3. Report to C&MS names and locations of plants whose products are found Salmonella positive during course of market sampling.

4. Report to C&MS, on request, data and results on its Salmonella surveillance of dry milk plants that are not approved under the C&MS program, or those in the USDA Salmonella Surveillance Program.

II. Name and address of participating Agency.

Consumer Marketing Service—USDA, Dairy Division, Washington, D.C.

III. Liaison officers.

A. Mr. Edwin F. Garbe, Consumer Marketing Service, Dairy Division, Washington, D.C. 20250, 202-388-3171.

B. Mr. Richard C. Swanson, Executive Director of Regional Operations, 5600 Fishers Lane, Rockville, MD 20852, 301-443-3340.

IV. Period of agreement. This agreement, when accepted by both parties, covers an indefinite period of time and may be modified by mutual consent of both parties or may be terminated by either party upon thirty (30) days advance written notice to the other.

V. Authority. This agreement is entered into under the authority of the Economy Act, approved June 30, 1932, as amended, 31 U.S.C. 686.

Approved and accepted for the Consumer and Marketing Service—USDA:

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

Dated: December 7, 1971.

Approved and accepted for the Food and Drug Administration:

SAM D. FINE,
Associate Commissioner
for Compliance.

Dated: December 3, 1971.

Dated: January 21, 1972.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[FR Doc.72-1276 Filed 1-27-72; 8:48 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

[Docket No. C-360]

VITO AND VICTOR G. POMILIA

Notice of Loan Application

JANUARY 21, 1972.

Vito Pomilia and Victor G. Pomilia, 83 Wakefield Avenue, Daly City, CA 94015, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new steel vessel, about 47-foot in length, to engage in the fishery for salmon, albacore, Dungeness crab, and sablefish.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-1245 Filed 1-27-72; 8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-231]

GENERAL ELECTRIC CO. AND SOUTHWEST ATOMIC ENERGY ASSOCIATES

Order Extending Provisional Operating License Expiration Date

General Electric Co. and Southwest Atomic Energy Associates having filed a request dated December 29, 1971, for an extension of the expiration date of Provisional Operating License No. DR-15 which authorizes the possession and operation of the Southwest Experimental Fast Oxide Reactor (SEFOR), a sodium-cooled experimental reactor, at thermal power levels not to exceed 20 megawatts located in Coves Creek Township, Washington County, Ark.; and,

Good cause having been shown in the application for this extension pursuant to paragraph 4 of said license and Part 50 of the Commission's regulations in 10 CFR: *It is hereby ordered*, That the expiration date of Provisional Operating License No. DR-15 is extended from March 4, 1972, to September 4, 1973.

Dated at Bethesda, Md., this 19th day of January 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,

Division of Reactor Licensing.

[FR Doc. 72-1244 Filed 1-27-72; 8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24175; Order 72-1-85]

AMERICAN AIRLINES, INC., ET AL.

Order Rejecting Tariff Filings Regarding East Coast, Puerto Rico/Virgin Islands Fare Increases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of January 1972.

By tariff revisions marked to become effective February 1, 5, and 9, 1972, American Airlines, Inc. (American),¹ Eastern Air Lines, Inc. (Eastern),² and Pan American World Airways, Inc. (Pan American),³ propose to increase most of their fares between northeastern U.S. gateway points (plus Hartford and Providence), on the one hand, and Puerto Rico and the U.S. Virgin Islands, on the other hand. The increases generally approximate 9 percent.

The carriers' principal argument in support of their proposals is that they are sustaining substantial operating losses in the San Juan and Virgin Islands markets and that even with the revenue increase their respective profit positions

will remain unsatisfactory. The carriers also allege that they have incurred cost increases and will incur additional increases in 1972. American and Pan American refer to possible capacity reductions, but allege that cost savings stemming from such reductions would not be sufficient in themselves to produce satisfactory profits. American indicates that if it operated at a 65-percent load factor to San Juan in 1972 instead of the 55.3 percent forecast, it would save \$5.2 million in operating costs which, together with the \$5 million revenue increase, would yield a 5.5-percent return on investment. Pan American alleges that it would not show an operating profit to San Juan even at a 70-percent load factor. Eastern makes no estimates based on higher load factors, but would have made an operating profit for the year ended September 30, 1971, at its experienced load factor of 60.4 percent had the proposed fares been in effect.

Each of the carriers states that the Price Commission has been informed of the proposed increases and alleges that the increases are within the stabilization guidelines. In support thereof, American alleges that it has incurred substantial losses, that its forecast is based on increases in unit salary expenses of 6.5 percent and average increases in other expenses of 2 percent, and that it has taken higher productivity into account. Accordingly, it alleges that the fare increases are neither based on nor will they contribute to, inflationary expectations, and contends that this is the minimum revenue increase necessary to assure continued adequate service.

Eastern alleges that it has been imposing a hiring freeze for some time and that consequently, productivity measures on a per-employee basis have increased. However, it is alleged this in a sense represents a false productivity gain since further construction of the work force in the future is impractical. Eastern alleges that, since it will earn less than a 12-percent return on its investment even with the increase, the increases proposed could not be construed as inflationary.

Pan American alleges that the San Juan fares are now substantially below domestic fare levels and that the proposed increases, which apply in markets having a great amount of discretionary income travel, will not contribute to inflationary pressures. Pan American further alleges that even with the increase its return on investment would still be far below the 12-percent return found reasonable by the Board; that in view of its large earnings deficiency the proposed increases are needed in order for it to continue service; and that all of these arguments would hold true even if they are successful in their efforts to reduce capacity.

The Government of the U.S. Virgin Islands (Virgin Islands) has filed complaints against the proposals of American and Pan American, and the Commonwealth of Puerto Rico (Commonwealth) has filed complaints against all three proposals. The Virgin Islands allege that their economy is dependent

upon tourism, and that the requested increases would have an adverse impact.

The principal thrust of the Commonwealth's complaint is that the carriers' financial losses in the markets are due primarily to overscheduling—and in the case of Pan American also to excessive costs and inefficient operations—and that the public should not be required to absorb a third round of fare increases to finance these inefficiencies.⁴

The Commonwealth also alleges that Puerto Rico's tourism and economic development require the maintenance of present fare levels, that fares to Puerto Rico and the Virgin Islands should not be increased when fares to competitive destinations (Europe and Hawaii) are being slashed, that the carriers have failed to submit justifications required by the Board's rules which would support the proposed increases, and that to the extent they can be evaluated the costs assigned to Puerto Rico operations in the carriers' justifications are excessive. The Commonwealth also states that the Board should not consider another fare increase in these markets without first holding the hearings that Puerto Rico twice requested in 1969 and which it again requests now.

Pan American has answered the complaints. In answer to the Virgin Islands complaint, Pan American alleges that they set forth no facts or argument justifying investigation and suspension, and that the complaints do not controvert the factual justification that it has presented in support of the proposal.

In answer to the Commonwealth's complaint, Pan American states that the thrust of the Commonwealth's complaint—i.e., excessive capacity, excessive costs, and inefficient operation, and existence of low fares to competitive destinations—has not been supported. Pan American acknowledges that there is over capacity, but reiterates its claim that even with a 70-percent load factor it would have sustained an operating loss for the year ended September 30, 1971. Pan American contends that the fact that its unit costs may be higher than those of other carriers does not mean that they are inconsistent with the statutory rate-making standards, and that its costs can be disregarded in setting fares.

The Board has determined that the carriers have not adequately demonstrated that the proposed increases are within the stabilization guidelines or otherwise consistent with the purpose of the Economic Stabilization Act of 1970 as required by Order 71-11-97, and accordingly, the tariffs will be rejected. Any refile of these fare proposals must be accompanied by the data described below. The thrust of the carriers' justifications is that they are sustaining operating losses in the San Juan and Virgin Islands markets, and that even with the proposed increases their respective profit positions will remain unsatisfactory. The

⁴ Fare increases were permitted effective Mar. 1, 1969, Order 69-2-148, Feb. 28, 1969 and effective Jan. 11, 1970, Order 69-12-112, Dec. 24, 1969. These increases totaled an estimated 18 percent.

¹ Revisions to American Airlines, Inc., Tariff C.A.B. No. 244.

² Revisions to Eastern Air Lines, Inc., Tariff C.A.B. No. 326.

³ Revisions to International Air Traffic Tariff Corp., agent, Tariffs C.A.B. No. 334 and C.A.B. No. 404.

carriers also allege that they have incurred cost increases and will sustain additional increases in 1972.

The Price Commission issued new regulations applicable to public utilities, including air carriers, effective January 17, 1972. Unlike the previous regulations they require the Board to certify any increases which it approves⁵ based on the criteria set forth in § 300.16(e) thereof. When approving a price increase, the Board must state the dollar amount of increased revenue expected, and the amount by which the carrier's profits as a percentage of sales and rate of return on investment will be increased. The Board must also certify that the price stabilization criteria, set forth in § 300.16(d) are met, namely, that the increase is (1) cost based and does not reflect inflationary expectations, (2) required to assure continued adequate and safe service or to provide for future expansion, and (3) will achieve the minimum rate of return or profit margin needed to attract capital at reasonable costs.

Most of these matters relate to the future, and therefore, the carriers must provide forecast data for the period subsequent to the proposed increase if the Board is to make the required certifications. Eastern and Pan American have provided no forecast data, and while American has provided certain forecast data, additional data is required. The additional information must include, for the year subsequent to the proposed increase, forecasts, with and without the proposed increases, of east coast-San Juan/Virgin Islands operations including capacity and traffic, revenues and expenses (broken down by normal Form 41 categories and functional accounts) operating profit, interest expense, Federal income taxes, investment, and rate of return on investment. All assumptions and allocative procedures should be fully explained. In developing their forecasts the carriers should bear in mind the Board's decision in the Domestic Passenger Fare Investigation, Phase 6B, that fares should be based upon load factor levels reasonably attainable over an extended period of time rather than on those anticipated in the period immediately ahead. In view of the special characteristics of the San Juan/Virgin Islands markets, we believe it reasonable to expect that load factors appreciably higher than the standard established for operations within the continental United States can be achieved.

This forecast should also specifically itemize cost increases which allegedly necessitate the proposed fare increase, and should be limited to actual increases incurred during, but not fully reflected in, the most recent reporting year (September 30, 1971); actual increases which have been incurred since; and contracted

⁵ For present purposes, we assume that the term "approves" as employed in § 300.16(e) encompasses a denial of the complaints requesting suspension of the subject tariff revisions, although such determination would not constitute an approval of the rate under the Federal Aviation Act.

future increases. Anticipated cost increases and expected inflationary increases should not be included.

Accordingly, it is ordered, That:

1. The tariff pages listed in Appendix A⁶ hereto are hereby rejected;
2. The complaints in Dockets 24094, 24101, 24109, and 24127 are dismissed as moot; and
3. Copies of this order be filed in the aforesaid tariffs and served upon American Airlines, Inc., Eastern Air Lines, Inc., Pan American World Airways, Inc., the Commonwealth of Puerto Rico, and the Government of the U.S. Virgin Islands.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-1300 Filed 1-27-72; 8:50 am]

[Docket No. 21454]

DETROIT-NASHVILLE NONSTOP INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 21, 1972, at 10 a.m., local time, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner William F. Cusick.

In order to facilitate the conduct of the conference, parties are instructed to submit to the Examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before February 28, 1972, and the other parties on or before March 10, 1972. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., January 25, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72-1296 Filed 1-27-72; 8:50 am]

[Docket No. 23140]

DOMESTIC TRUNKLINE AND LOCAL SERVICE CARRIERS

Notice of Hearing Regarding Reasonableness of Passenger Fares

Reasonableness of passenger fares charged by domestic trunkline and local service carriers from October 1, 1969, through October 14, 1970.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding will be held on February 22, 1972, at 10 a.m., e.s.t., in Room

⁶ Filed as part of the original document.

726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Ross I. Newmann.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report served on August 9, 1971, the Supplemental Prehearing Conference Report served on September 3, 1971, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 24, 1972.

[SEAL] ROSS I. NEWMANN,
Hearing Examiner.

[FR Doc.72-1298 Filed 1-27-72; 8:50 am]

[Docket No. 24051]

MODERN AIR TRANSPORT, INC., AND GAC CORP.

Application for Waiver of Jurisdiction or Approval of Corporate Reorganization

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., January 25, 1972.

A. M. ANDREWS,
Director,
Bureau of Operating Rights.

Issued under delegated authority.

GAC Corp. (GAC), GAC Properties, Inc. (Properties) and Modern Air Transport, Inc. (Modern) request that the Board disclaim jurisdiction over or, in the alternative, approve pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act) a corporate reorganization by which Modern will become a direct subsidiary of GAC.

Modern, a supplemental air carrier, is presently owned by Properties, a wholly owned subsidiary of GAC. GAC is a diversified company providing a wide range of products and services through subsidiaries engaged in land sales and development, consumer finance, insurance, savings and loan operations, real estate, mortgage banking, and retail merchandising. Other than Modern, GAC has no affiliates or subsidiaries which are air carriers or persons engaged in a phase of aeronautics, and it has only one subsidiary which is a common carrier:

White City Terminal and Utility Co., a terminal railroad which is immediately

¹ The Board previously approved the acquisition of Modern by Gulf American Corp. (now Properties) in 1966 pursuant to Order E-23825. Gulf American was itself acquired by GAC in 1969, the Board disclaiming jurisdiction over the transaction in Order 69-2-110.

² In Order 69-2-110, the Board noted GAC's control of Kahr Bearing Corp., a phase of aeronautics. However, GAC has since disposed of the company.

owned by another GAC subsidiary, Commonwealth, Inc.² At December 31, 1970, GAC had assets of \$1.7 billion and total stockholders equity of \$296 million. No individual or group of individuals owns 10 percent or more of GAC's common stock.⁴

To effectuate the proposed reorganization, GAC intends to issue to Properties, in return for all of the capital stock of Modern, a non-interest bearing demand promissory note in the sum of \$4,950,428, representing Properties' investment in Modern at July 1, 1971 to the extent it has not been forgiven or written off, plus Properties' outstanding and reimbursable loans and advances to Modern at the time. The purpose of the transaction is to remove Modern's losses from the financial statements of Properties. In this regard, Modern has been unable to reach profitability since 1967 and has required financial advances from Properties of approximately \$14 million in the last three years, distorting the profit and loss statistics regarding Properties' land sales and development activities.

Following the transfer, all of Modern's officers and directors will be officers either of GAC or of Modern. Properties' management will no longer have participation in the management of Modern. Such guarantees as Properties has made on Modern's behalf will not be disturbed by the transfer.

Modern's transactions with its GAC affiliates have been confined substantially to Properties' purchase of charter airline transportation⁵ and to Modern's purchase of aircraft hull and automobile physical damage insurance.⁶

² With respect to the railroad operation, applicants request that the Board respect Commonwealth, Inc. as an intervening corporate entity, as was done in Order 69-2-110, thereby recognizing no common control or ownership of Modern and any common carrier.

⁴ The largest stockholdings in GAC are held directly and in various trust capacities by Leonard Rosen and the Estate of Julius L. Rosen. Leonard Rosen's principal occupation is that of consultant to GAC. The Rosen holdings have a direct voting interest in GAC of 5 percent. However, 1.2 percent of such direct voting stock is voting preference stock which can be converted to provide the Rosen interests a possible 27 percent of GAC's common stock. Applicants assert that such stockholdings are presently below 10 percent and thus are not sufficient to constitute control of Modern. Furthermore, applicants state that an agreement between GAC and the Rosens provides that at such time as the voting powers of the Rosens' stockholdings exceeds 8 percent of the total number of voting shares, the shares representing such excess shall be placed in a voting trust. Beyond the question of stock holdings, GAC has followed the practice of allowing the Rosens to appoint two nominees to GAC's 15-man board of directors.

⁵ Properties' charters from Modern amounted to \$4.8 million in calendar 1970 but subsided to \$189,700 during the seven months ending July 31, 1971. The reduction is stated to be brought about by a policy change in the conduct of Properties' land sales and development business. Properties no longer employs long-haul charter flights as a regular part of its sales program. Therefore, GAC has no present intentions of purchasing charter air transportation from Modern.

⁶ In 1972, Modern will pay the Stuyvesant Insurance Co., a GAC subsidiary, \$234,311 for hull insurance. In 1971, Modern paid premiums of \$436 for automobile physical damage insurance to the Southern General Insurance Co., a GAC affiliate.

No comments or requests for a hearing have been received.

Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than 1 day following such publication, both in accordance with section 408(b) of the Act.

Subsequent to the issuance of Order 69-2-110, wherein the Board disclaimed jurisdiction over GAC's acquisition of Properties (which owned Modern), Congress amended section 408 of the Act with the passage of Public Law 91-62, effective August 5, 1969, providing for Board approval of the acquisition of control of an air carrier by "any person." The acquisition of Modern, an air carrier, by GAC, a person, therefore comes within the Board's jurisdiction.⁷

The reorganization provides for the transfer of Modern from Properties, a GAC subsidiary, to GAC. As noted previously, all of Modern's officers and directors will be officers either of GAC or of Modern. GAC's control of Modern has been a fact for almost 3 years, and will not be materially affected by this transaction. In this regard, the transfer appears to be in the public interest insofar as GAC has sufficient financial resources to continue to supply needed financial assistance to Modern. It has therefore been determined under the third proviso of section 408(b) that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest is requesting a hearing and it is concluded that the public interest does not require one.⁸ Approval of the control relationships is based only on the information of record as of this date. Consistent with previous Board action in similar instances jurisdiction shall be retained over the proceeding to reexamine the relationship and to impose other appropriate conditions. Also, to protect the public against any impairment of the air carrier's certificate obligations which might arise by reason of the relationships, reporting requirements will be imposed which will apprise the Board of any intercompany transactions with or affecting Modern having an aggregate volume annually of \$100,000 or more.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, and 385.3, it is found that the foregoing control relationships should be approved under section 408(b) of the Act, subject to certain conditions, without hearing.

Accordingly, it is ordered, That:

1. The control of Modern by GAC be and it hereby is approved, subject to conditions described below;

2. Modern shall file in this docket on or before March 1, 1973, and on or before March 1 of each succeeding year in which approval herein is effective, a report in triplicate setting forth for the preceding calendar year:

(a) A description, including quantity and dollar amount, of each type of product or service purchased by Modern from GAC and its subsidiaries, or of air transportation services purchased from Modern by GAC or its subsidiaries, where such transactions in the aggregate exceed \$100,000 per year;⁹

(b) For each item not involving the purchase of air transportation from Modern which is reported pursuant to 2(a) above,

⁷ Cf. The Flying Tiger Line Inc., Order 70-6-119, issued May 5, 1970, involving the corporate reorganization of Flying Tiger.

⁸ Cf. The Flying Tiger Line, Order 69-12-121, Dec. 29, 1969.

⁹ Negative reports should be submitted where appropriate.

the basis upon which each vendor was selected;

3. Jurisdiction in this proceeding be and it hereby is retained for the purpose of reviewing at any time the circumstances of the relationship approved herein and for imposing such further terms and conditions on such approval as the Board may find necessary to protect the public interest;

4. To the extent not granted herein, all other outstanding requests for relief in Docket 24051 be and they hereby are dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL]

HARRY J. ZINK,
Secretary.

[FR Doc.72-1301 Filed 1-27-72; 8:50 am]

[Docket No. 22973]

NEW ENGLAND SERVICE INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 14, 1972, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Greer M. Murphy.

In order to facilitate the conduct of the conference, parties are instructed to submit to the Examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before February 22, 1972, and the other parties on or before March 3, 1972. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., January 25, 1972.

[SEAL]

RALPH L. WISER,
Chief Examiner.

[FR Doc.72-1297 Filed 1-27-72; 8:50 am]

[Docket No. 17665]

REOPENED WASHINGTON/BALTIMORE HELICOPTER SERVICE INVESTIGATION

Notice of Further Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a further hearing in the above-entitled proceeding will be held with respect to the application of Pioneer Airlines, Inc., in Docket 23952, on February 10, 1972, at 10 a.m. e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to Order 72-1-16, dated January 7, 1972, in which the Board ordered the record herein reopened, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 25, 1972.

[SEAL] WILLIAM F. CUSICK,
Hearing Examiner.

[FR Doc.72-1299 Filed 1-27-72;8:50 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MEXICO

Visa Requirement; Entry or Withdrawal From Warehouse for Consumption

JANUARY 21, 1972.

On August 26, 1971, there was published in the FEDERAL REGISTER (36 F.R. 16957) a letter dated August 23, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs prohibiting the entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton textiles and cotton textile products produced or manufactured in Mexico, and exported from Mexico to the United States on or after 30 days after the date of said publication, for which Mexico had not issued a visa. One of the visa requirements is that a visa is required for each one of the 64 categories of cotton textiles and cotton textile products covered by a single invoice. The Government of Mexico has requested, and the Government of the United States has acceded to the request, that this requirement be changed so that a single visa for each invoice, regardless of the number of categories covered by the invoice, likewise will be acceptable.

Accordingly, there is published below a letter of January 21, 1972, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs amending the directive of August 23, 1971, so as to conform the directive to the Mexican request.

STANLEY NEHMER,
Chairman, Interagency Textile
Administrative Committee,
and Deputy Assistant Secretary
for Resources.

PRESIDENT'S CABINET TEXTILE ADVISORY
COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

JANUARY 21, 1972.

DEAR MR. COMMISSIONER: This letter amends the directive of August 23, 1971, from

the Chairman of the President's Cabinet Textile Advisory Committee that directed you to prohibit, effective 30 days after publication of notice in the FEDERAL REGISTER, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton textiles and cotton textile products produced or manufactured in Mexico, and exported from Mexico to the United States for which Mexico had not issued a Visa.

Pursuant to the authorities set forth in the first paragraph of the aforementioned letter of August 23, 1971, the second sentence in the second paragraph of that directive is amended, effective as soon as possible, to read as follows:

"Generally, a separate Visa will be required for each of the 64 categories of cotton textiles and cotton textile products: Provided, however, That when more than one category is listed on a single invoice, a single Visa may cover all the cotton textiles

and cotton textile products on that invoice regardless of the number of categories."

The actions taken with respect to the Government of Mexico and with respect to imports of cotton textiles and cotton textile products from Mexico have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce, Chairman,
President's Cabinet Textile Ad-
visory Committee.

[FR Doc.72-1281 Filed 1-27-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Informal Dominican Republic Change List No. 1/71]

DOMINICAN REPUBLIC STANDARD BROADCAST STATIONS

Change List

DECEMBER 27, 1971.

Notification of new Dominican Republic broadcasting stations and of changes in or deletions of existing stations made in conformity with Part III Section II of the North American Regional Broadcasting Agreement, Washington, D.C.

Call letters	Location	Power kw	Antenna	Sched- ule	Class	Expected date of commencement of operation
HIZ (previously 1350 kHz, 1 kw. D/0.25 kw. N—now in operation).	Santo Domingo	750 kHz 5 kw. D/1 kw. N				
HLXZ (previously 730 kHz, 5 kw. D/1 kw. N—now in operation).	Santo Domingo	1350 kHz 1 kw. D/0.25 kw. N				

FCC Note: These changes were transmitted informally by letter from the Government of the Dominican Republic dated Dec. 27, 1971.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-1216 Filed 1-27-72;8:46 am]

[Report 580]

COMMON CARRIER SERVICES INFORMATION¹

Domestic Public Radio Services Applications Accepted for Filing²

JANUARY 24, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, and application, in order to be considered with any domestic public radio services applica-

¹ All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

² The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

tion appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect

to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27

of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS
COMMISSION,

BEN F. WAFFLE,

Secretary.

[SEAL]

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

4027-C2-ML-72—Chalfont Communications (KMM581), change frequency from 74.02 MHz to 72.20 MHz for control at location No. 2: 664 North Palm Canyon Drive, Palm Springs, CA.
4346-C2-P-72—R.C.S., Inc. (KMD689), replace transmitter for control facilities operating on 454.05 MHz at location No. 3 and redescribe the address of location for 454.05 and 454.20 MHz control to read: 819 West Church Street, Santa Maria, CA.
4352-C2-P-72—Answer, Inc. of San Antonio (KKG559), for additional facilities to operate on 454.025, 454.125, 454.275, 454.350 MHz at new location designated as location No. 3: 7711 Louis Pasteur Drive, San Antonio, TX.
4354-C2-P-72—RCA Alaska Communications, Inc. (New), for a new two-way station to be located at Diamond Ridge WACS, Diamond Ridge Road, Homer, AK, to operate on 152.57 and 152.66 MHz.

4401-C2-P-72—New Jersey Radio Telephone Co. (New), for a new two-way station to be located at Elm and Orchard, Vineland, N.J. to operate on 454.300 MHz.

4402-C2-P-72—Mahaffey Message Relay (KDT233), for additional facilities to operate on 152.030 MHz at a new site designated as location No. 3: 1.7 miles southeast of Collierville, Tenn.

4410-C2-MP-72—Services Unlimited, Inc. (KRH656), relocate facilities operating on 158.70 MHz to a new site designated as location No. 2: 3333 Silas Creek Parkway, Forsyth Memorial Hospital, Winston-Salem, NC.

4411-C2-P-72—Radio Telephone Co. of Gainesville (New), for a new one-way station to be located at 540 Corporation Avenue, Daytona Beach, FL, to operate on 152.24 MHz.

4412-C2-AL-72—Montana Communications, consent to assignment of license from Montana Communications, Assignor, to Industrial Electronics & Automation, Inc., Assignee, Station: KOP294 Butte, Mont.

4421-C2-P-72—A. F. Kimmel (KGA589), change the base frequency to 152.18 MHz, replace transmitter and change the antenna system located at Sharp Mountain, North Mannheim Township, Pottsville, Pa.

RURAL RADIO SERVICE

4355-C1-P-72—RCA Alaska Communications, Inc. (New), for a new rural subscriber station to be located at Hallbut Cove, Dick Bertoglio's home east edge of village, approximately 18.4 miles east-northeast from Homer, Alaska, to operate on 157.83 and 157.92 MHz.

4409-C1-P/L-72—Navajo Communications Co., Inc. (New), for a new rural subscriber station to operate on 157.83 and 158.04 MHz with (6 units) in any temporary-fixed location within the territory of applicant.

4422-C1-P-72—RCA Alaska Communications, Inc. (New), for a new interoffice station to be located at Anna Platform, 29 miles north of Kenai, Alaska, to operate on 454.625 MHz.

4423-C1-P-72—RCA Alaska Communications, Inc. (New), for a new interoffice station to be located at Baker Platform 18.5 miles north-northeast of Kenai, Alaska, on 454.400 MHz.

4424-C1-P-72—RCA Alaska Communications, Inc. (New), for a new interoffice station to be located at Bruce Platform, 30.5 miles north of Kenai, Alaska, on 459.625 MHz.

4425-C1-P-72—RCA Alaska Communications, Inc. (New), for a new interoffice station to be located at Dillon Platform, 13.5 miles northeast of Kenai, Alaska.

INFORMATIVE: Microwave channels originally authorized for protection purposes may be converted to working channels without prior Commission authorization. *Provided*, That no modification of radio facilities is involved and appropriate section 214 or other authority is obtained for the circuits to be deprived. However, the Commission should be notified by letter of the change.

POINT-TO-POINT MICROWAVE RADIO SERVICE

INFORMATIVE: Western Tele-Communications, Inc. is proposing 33 new stations for specialized common carrier service between Chicago and New York with intermediate stations at Detroit, Cleveland, Pittsburg, Washington, D.C., Baltimore, and Philadelphia.

4307-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Chicago, latitude 41°49'54" N., longitude 87°41'20" W. Frequencies 11.665V, 11.345V, 11.425H, and 11.585H on azimuth 225°50'.

4308-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Bridge View, latitude 41°44'30" N., longitude 87°48'45" W. Frequencies 10.935V, 11.095V, 11.015H, and 11.175H MHz on azimuth 45°45' and 61.97.2V, 62.56.5V, 63.15.9V, and 63.75.2V on azimuth 118°5'.

4309-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Glen Park, latitude 87°20'20" N., longitude 87°20'20" W. Frequencies 5945.2V, 6004.5V, 6063.8V, and 6123.1V on azimuth 76°43' and 5945.2V, 6004.5V, 6063.8V, and 6123.1V on azimuth 398°24'.

4310-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Michigan City, latitude 41°38'46" N., longitude 86°47'36" W. Frequencies: 6226.9H, and 6226.2H, 6345.5H, and 6404.8H on azimuth 76°44' and 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 257°5'.

4311-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station South Bend, latitude 41°45'0" N., longitude 86°11'47" W. Frequencies: 5974.3H, 6034.2H, 6093.5H, and 6152.8H on azimuth 257°8' and 5974.8V, 6034.2V, 6093.5V, and 6152.8V on azimuth 82°59'.

4312-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Sturgis, latitude 41°49'16" N., longitude 85°23'40" W. Frequencies 6226.9V, 6286.2V, 6345.5V, and 6404.8V on azimuth 263°31' and 11.625H, 11.305H, 11.545V, and 11.225V on azimuth 96°35'.

4313-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Kinderhook, latitude 41°47'1" N., longitude 84°58'10" W. Frequencies: 10.735H, 10.895H, 11.135V, and 10.815V on azimuth 276°52' and 10.775V, 10.935V, 11.015H, and 11.175H on azimuth 68°15'.

4314-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Hillsdale, latitude 41°53'14" N., longitude 84°37'12" W. Frequencies: 11.665V, 11.345V, 11.425H, and 11.585H on azimuth 248°29' and 5974.3H, 6034.2H, 6093.5H, and 6123.1V on azimuth 84°31'.

4315-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Adrain, latitude 41°55'37" N., longitude 84°02'48" W. Frequencies: 6226.9V, 6286.2V, 6345.5V, and 6404.8V on azimuth 132°11' and 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 264°54'.

4316-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Toledo, latitude 41°37'49" N., longitude 83°36'42" W. Frequencies: 5945.2H, 6004.5H, 6063.8H, and 6123.1H on azimuth 312°29'; 5945.2V, 6004.5V, 6063.8V, and 6123.1V on azimuth 133°38'; 6034.2V on azimuth 23°34'.

4317-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station La Salle, latitude 41°51'31" N., longitude 83°28'42" W. Frequencies 6226.9H on azimuth 33°39' and 6315.9H on azimuth 203°40'.

4318-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Detroit, latitude 42°20'01" N., longitude 83°03'05" W. Frequency 6034.2V on azimuth 213°57'.

4319-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Fremont, latitude 41°21'32" N., longitude 83°14'05" W. Frequencies 6197.2V, 6256.5V, 6286.2H, and 6404.8H on azimuth 313°53' and 6197.2H, 6256.5H, 6315.9H, and 6375.2H on azimuth 103°29'.

4320-C1-P-72—Western Tele-Communication, Inc. (New), C.P. for a new fixed station Monroeville, latitude 41°16'10" N., longitude 82°44'45" W. Frequencies: 6004.5V, 6123.1V, 6034.2H, and 6152.8H on azimuth 283°48' and 6034.2H, 6093.5H, 6152.8H, and 6123.1V on azimuth 84°6'.

- 4321-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Oberlin, latitude 41°18'31" N., longitude 82°13'39" W. Frequencies: 6197.2V, 6256.5V, 6315.9V, and 6375.2V on azimuth 264°27' and 6256.5V, 6375.2V, 6286.2H, and 6404.8H on azimuth 81°23'.
- 4322-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Cleveland, latitude 41°21'56" N., longitude 81°43'9" W. Frequencies: 6004.5V, 6123.1V, 6034.2H, and 6152.8H MHz on azimuth 261°43' and 5974.8V, 6084.2V, 6093.5V MHz, and 6123.1H on azimuth 97°19'.
- 4323-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Hiram, latitude 41°18'43" N., longitude 81°10'44" W. Frequencies: 6197.2V, 6256.5V, 6286.2H, and 6404.8H on azimuth 277°40' and 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 129°5'.
- 4324-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Austintown, latitude 41°6'40" N., longitude 80°51'10" W. Frequencies: 5945.2V, 6004.5V, 6063.8V, and 6123.1V on azimuth 309°18' and 5974.8V, 6034.2V, 6093.5V MHz, and 6152.8V on azimuth 144°13'.
- 4325-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station E. Palestine, latitude 40°50'37" N., longitude 80°35'57" W. Frequencies: 6226.9V, 6286.2V, 6345.5V, and 6404.8V on azimuth 130°4'.
- 4326-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Alquiappa, latitude 40°37'14" N., longitude 80°15'7" W. Frequencies: 5945.2H, 6004.5H, 6063.8H, and 6123.1H on azimuth 310°18' and 5945.2H, 6004.5H, 6063.8H, and 6123.1H on azimuth 113°6'.
- 4327-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Pittsburg, latitude 40°28'5" N., longitude 79°47'12" W. Frequencies: 6197.2H, 6256.5H, 6315.9H, and 6375.2H MHz on azimuth 293°24' and 6197.2V, 6256.5V, 6315.9V, and 6375.2V on azimuth 195°37'.
- 4328-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Carroll, latitude 40°28'5" N., longitude 79°47'12" W. Frequencies: 6197.2H, 6256.5H, 6315.9H, and 6375.2H on azimuth 293°24' and 6197.2V, 6256.5V, 6315.9V, and 6375.2V on azimuth 195°37'.
- 4329-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Brownfield, latitude 39°45'40" N., longitude 79°42'54" W. Frequencies: 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 342°25' and 6226.9V, 6286.2V, 6345.5V, and 6404.8V on azimuth 119°59'.
- 4330-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Meadow Mountain, latitude 39°32'47" N., longitude 79°14'12" W. Frequencies: 5974.8V, 6034.2V, 6093.5V, and 6152.8V MHz on azimuth 300°18' and 5945.2H, 6004.5H, 6063.8H, and 6123.1H on azimuth 135°40'.
- 4331-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Nathaniel Mountain, latitude 39°11'39" N., longitude 78°47'44" W. Frequencies: 6197.2H, 6256.5H, 6315.9H, and 6375.2H on azimuth 315°57' and 6226.9V, 6286.2V, 6345.5V, and 6404.8V on azimuth 65°45'.
- 4332-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Shocksaville, latitude 39°23'10" N., longitude 78°14'33" W. Frequencies: 5974.8V, 6034.2V, 6093.5V, and 6152.8V on azimuth 246°7' and 5945.2V, 6004.5V, 6063.8V, and 6123.1V on azimuth 140°11'.
- 4333-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Blue Ridge, latitude 39°3'31" N., longitude 77°53'35" W. Frequencies: 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 320°25' and 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 113°20'.
- 4334-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Herndon, latitude 38°53'2" N., longitude 77°22'42" W. Frequencies: 5945.2V, 6004.5V, 6063.8V, and 6123.1V on azimuth 293°40' and 5974.8H, 6034.2H, 6093.5H, and 6152.8H on azimuth 100°27'.
- 4335-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Washington, latitude 38°50'48" N., longitude 77°7'20" W. Frequencies: 6256.5V, 6315.9V, 6286.2H, and 6404.8H on azimuth 280°37' and 11,585H, 11,265H, 11,345V, and 11,505V on azimuth 28°8'.

- 4336-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Burtonsville, latitude 39°7'15" N., longitude 76°56'5" W. Frequencies: 11,175H, 10,855H, 10,935V, and 11,095V on azimuth 208°9' and 5945.2H, 6004.5H, 6063.8H, and 6123.1H on azimuth 47°39'.
- 4337-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Baltimore, latitude 39°24'46" N., longitude 76°31'15" W. Frequencies: 6226.9H, 6286.2H, 6345.5H, and 6315.9V on azimuth 227°55' and 11,585H, 11,265H, 11,345V, and 11,505V on azimuth 39°15'.
- 4338-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Vale, latitude 39°32'50" N., longitude 76°22'44" W. Frequencies: 11,015H, 11,175H, 10,855H, and 11,095V on azimuth 219°20' and 5945.2H, 6004.5H, 6063.8H, and 6123.1H on azimuth 55°52'.
- 4339-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Rising Sun, latitude 38°43'31" N., longitude 76°2'16" W. Frequencies: 6197.2H, 6256.5H, 6315.9H, and 6375.2H on azimuth 236°5' and 6197.2V, 6256.5V, 6315.9V, and 6375.2V on azimuth 62°31'.
- 4340-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Gradyville, latitude 39°56'48" N., longitude 75°28'54" W. Frequencies: 5974.8H, 6034.2H, 6093.5H, and 6152.8H on azimuth 242°52' and 5974.8H, 6034.2H, 6093.5H, and 6152.8H on azimuth 70°58'.
- 4341-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Philadelphia, latitude 40°1'30" N., longitude 75°11'6" W. Frequencies: 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 251°9' and 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 318°19'.
- 4342-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Norristown, latitude 40°10'33" N., longitude 75°21'37" W. Frequencies: 5974.8H, 6034.2H, 6093.5H, and 6157.8H on azimuth 138°12' and 5945.2H, 6004.5H, 6063.8H, and 6123.1H on azimuth 1°24'.
- 4343-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Hellertown, latitude 40°31'46" N., longitude 75°20'56" W. Frequencies: 6197.2H, 6256.5H, 6315.9H, and 6375.2H on azimuth 181°25' and 6197.2H, 6256.5H, 6315.9H, and 6375.2H on azimuth 57°26'.
- 4344-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Hacketstown, latitude 40°47'22" N., longitude 74°48'39" W. Frequencies: 5945.2H, 6004.5H, 6063.8H, and 6123.1H on azimuth 237°47' and 11,405V, 11,245V, 11,325H, and 11,485H on azimuth 92°4'.
- 4345-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new fixed station Orange, latitude 40°46'26" N., longitude 74°17'20" W. Frequencies 10,955V, 11,115V, 10,715H, and 10,875H on azimuth 272°25'.
- 4347-C1-P-72—General Telephone Co. of Florida (KIT31), 830 Arlington Avenue, St. Petersburg, FL, C.P. to add frequency 6330.7V MHz toward Bradenton, Fla.
- 4348-C1-P-72—General Telephone Co. of Florida (KIO64), 1015 Fourth Avenue, Bradenton, FL, C.P. to delete frequencies 5967.4V, 6086.0V MHz toward Sarasota, Fla., and substitute frequencies 6019.3V, 6078.6V, 6137.9V MHz toward Sarasota, Fla., and delete frequencies 6019.3V, 6137.9V MHz toward St. Petersburg, Fla., and substitute frequency 6078.6V MHz toward St. Petersburg, Fla.
- 4349-C1-P-72—General Telephone Co. of Florida (KIO65), Corner of Pine Place and Bamboo Lane, Sarasota, Fla. C.P. to delete frequencies 6219.5V, 6338.1V MHz toward Bradenton, Fla., and substitute frequencies 6271.4V, 6330.7V, 6390.0V MHz toward Bradenton, Fla.
- 4350-C1-P-72—Andrews Tower Rentals, Inc. (KLP96), 1.9 miles west of Brownwood, Tex. C.P. to add a point of communication at Santa Anna, Tex., using a power split on frequency 6034.2H and 6226.9H MHz on azimuth 274°30'. Applicant proposes to provide the television signals of stations KTVT and KDFW of Fort Worth-Dallas to Santa Anna Cable TV in Santa Anna, Tex.
- 4356-C1-P-72—Indiana Bell Telephone Co. (WAY99), 2 miles east-northeast of Bruceville, Ind. C.P. to add 10,835V MHz toward Vincennes, Ind.
- 4357-C1-MP-72—American Telephone & Telegraph Co. (KSP69), 3.3 miles north-northwest of Lawrenceburg, Ind. Modification of C.P. (6186-C1-P-71) to change polarization from V to H on frequency 6315.9H toward Versailles, Ind.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

- 4358-C1-P-72—American Telephone & Telegraph Co. (KSP69), C.P. to change polarization from H to V on frequencies 6177.5V, 6286.2V, 6345.5V, 6404.8V MHz and change frequencies V to H on 6197.2H, 6375.2H, 6424.5H MHz toward Versailles, Ind.
- 4359-C1-P-72—Southern Bell Telephone & Telegraph Co. (KIU56), 45 North Magnolia Street, Orlando, FL. C.P. to add frequency 11,285V MHz toward WMFE-TV studio.
- 4413-C1-P-72—Pacific Northwest Bell Telephone Co. (KPF39), Block 8, Waldeck Street, Bly, OR. C.P. to correct coordinates to read latitude 42°23'53" N., longitude 121°02'35" W. and add Collins 50A10-2MW traveling wave tube amplifier to existing transmitter operating on 6219.5V, 6338.1V MHz towards Lakeview, Ore. via passive reflector.
- 4415-C1-P-72—Universal Telephone Co. of Northern Wisconsin, Inc. (New), a new station 1.2 miles southeast of Manitowish Waters, Wis. (Vilas), latitude 46°07'24" N., longitude 89°52'13" W. Frequency 6404.8V MHz toward Lac du Flambeau, Wis.
- 4416-C1-MP-72—American Telephone & Telegraph Co. (KQE49), Modification of C.P. (6175-C1-P-71) to change polarization from H to V on frequencies 3830V, 3910V, 4070V, 4150V MHz toward Sycamore, Pa.
- 4417-C1-MP-72—American Telephone & Telegraph Co. (KGO83), Modification of C.P. (6172-C1-P-71) to change polarization from H to V on frequencies 3790V, 3870V, 4030V, 4110V MHz toward Bridgeport, Ohio.
- 4418-C1-ML-72—American Telephone & Telegraph Co. (KQE49), Modification of license to change polarization from H to V on frequencies 3770V, 3850V, 3930V MHz toward Wheeling, W. Va.
- 4419-C1-ML-72—American Telephone & Telegraph Co. (KGO83), Modification of license to change polarization from V to H on frequencies 3810H, 4130H MHz toward Bridgeport, Ohio.
- 4420-C1-ML-72—American Telephone & Telegraph Co. (KYO77), Modification of license to change polarization from H to V on frequencies 4050V, 4130V MHz toward Bridgeport, Ohio.
- 4384-C1-ML-72—Eastern Microwave, Inc. (KEL89), Modification of license at Rogers Knob, N.Y., to deliver, via subcarrier, one (1) audio program channel for FM broadcast service to Oneonta, N.Y.
- 4385-C1-ML-72—Eastern Microwave, Inc. (KEM49), Modification of license at Smith Hill, N.Y., to deliver, via subcarrier, one (1) audio program channel for FM broadcast service to Rome, N.Y.
- 4386-C1-ML-72—Eastern Microwave, Inc. (KPP81), Modification of license at 0.2 mile northwest of Gouverneur, N.Y., to deliver, via subcarrier, one (1) audio program channel for FM broadcast service to Potsdam, N.Y.
- 4427-C1-MP-72—American Microwave & Communications, Inc. (KSY63), Modification of C.P. to change polarization of frequency 5982.3 MHz to horizontal on azimuth 289°51'.
- Location: 4 miles east of Trout Lake, Mich. at latitude 46°11'09" N., longitude 84°56'49" W.
- 4428-C1-P-72—Mountain Microwave Corp. (New), C.P. for a new station at Country Club Road, Aberdeen, S. Dak. at latitude 45°28'30" N., longitude 98°30'41" W. Frequencies 10,835H and 11,155H MHz on azimuth 326°55'.
- 4429-C1-P-72—Mountain Microwave Corp. (New), C.P. for a new station 9 miles west-northwest of Forbes, N. Dak. at latitude 45°57'48" N., longitude 98°58'06" W. Frequencies 11,325H and 11,485H MHz on azimuth 336°42'.
- 4430-C1-P-72—Mountain Microwave Corp. (New), C.P. for a new station 16 miles north-northeast of Lehr, N. Dak. at latitude 46°30'01" N., longitude 99°18'12" W. Frequencies 10,835H and 11,155H MHz on azimuth 275°27'.
- 4431-C1-P-72—Mountain Microwave Corp. (New), C.P. for a new station 6 miles northeast of Fort Rice, N. Dak. at latitude 46°34'18" N., longitude 100°28'54" W. Frequencies 11,325H and 11,485 MHz on azimuth 308°34'.
- 4432-C1-P-72—Mountain Microwave Corp. (New), C.P. for a new station 10 miles west-northwest of Mandan, N. Dak. at latitude 46°54'06" N., longitude 101°05'18" W. Frequencies 10,835H and 11,155H MHz on azimuth 15°33'.
- 4433-C1-P-72—Mountain Microwave Corp. (New), C.P. for a new station 4.25 miles south-southeast of Turtle Lake, N. Dak. at latitude 47°27'42" N., longitude 100°51'30" W. Frequencies 11,325H and 11,485H MHz on azimuth 342°13'.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4434-C1-P-72—Mountain Microwave Corp. (New), C.P. for a new station 3.6 miles north-northwest of Benedict, N. Dak. at latitude 47°52'51" N., longitude 101°03'30" W. Frequencies 10,875V and 11,155V MHz on azimuth 334°07'. Applicant proposes to provide the television signals of stations WTCN of Minneapolis, Minn. and KORN-TV of Mitchell, S. Dak. to Community Tele-Communications, Inc. in Minot, N. Dak.

Major Amendments

- 3007-C1-P-71—Southern Bell Telephone & Telegraph Co. (KJM36), Change frequencies from 6241.7H and 6360.3H MHz to 6197.2H MHz toward Avon Park (KIU43), Fla. All other particulars the same as reported in Public Notice, Report 521 dated Dec. 7, 1970.
- 2010-C1-P-71—United Telephone Co. of Florida (KIU43), Change frequencies from 5989.7H and 6108.3H MHz to 5945.2H MHz toward West Frostproof (KJM36), Fla. All other particulars the same as reported in Public Notice, Report 514 dated Oct. 19, 1970.
- 3400-C1-P-70—MCI-New England, Inc. (New), 3.3 miles northwest of Staffordville, Conn. Change frequency 5974.8V MHz toward Avon, Conn. to 5960.0V MHz. All other particulars same as reported on Public Notices dated Dec. 22, 1969 and Dec. 13, 1971.
- 3619-C1-P-72—Data Transmission Co. (New), Change frequency on azimuth 78°33' toward Sidewinder Mountain, Calif. to 6004.5H MHz on azimuth 78°33' toward Sidewinder Mountain, Calif. All other particulars the same as reported on Public Notice, Report No. 576 dated Dec. 27, 1971.
- 3620-C1-P-72—Data Transmission Co. (New), Change frequency "on azimuth 258°58' toward Mescal Creek" to "6256.5H MHz on azimuth 258°58' toward Mescal Creek." All other particulars the same as reported on Public Notice, Report No. 576 dated Dec. 27, 1971.
- 5217-C1-P-71—RCA Alaska Communications, Inc. (New), 301 Outer Drive, Juneau, AK. Add frequency 11,325V MHz toward Lena Point via passive reflector on Mount Roberts.
- 5218-C1-P-71—RCA Alaska Communications, Inc. (New), Lena Point, Alaska. Add frequency 10,965V MHz toward Juneau via passive reflector on Mount Roberts.
- 5219-C1-P-71—RCA Alaska Communications, Inc. (WCF58), 200 Gaffney Road, Fairbanks, AK. Add frequency 11,325V MHz toward proposed station 8 miles northwest of Fairbanks via passive reflector at Engineer Creek.
- 5220-C1-P-71—RCA Alaska Communications, Inc. (New), Goldstream Road, 8 miles north-west of Fairbanks, Alaska. Add frequency 10,955V MHz toward Fairbanks via passive reflector at Engineer Creek.
- All other particulars same as reported on Public Notice dated Apr. 12, 1971.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

Major Amendments

INFORMATIVE: Applicant Microwave Communications, Inc. is amending seven of its previously filed applications for authority to construct a new specialized common carrier service in a two-State area from Bloomington, Ill. to Blue Grass, Iowa and serving other cities in Illinois. The applications now being amended were originally filed in June 1970. They appeared in Public Notice June 22, 1970, FCC Report No. 497. No prior amendments to these applications have been filed. Each application that is now amended is referenced to the date filed. The amendments and new applications are necessitated to insure compliance with the new engineering standards set forth in the Commissions' first report and order in Docket No. 18920 effective July 15, 1971, and informative guideline published regarding frequency coordination in Report No. 562, FCC Common Carrier Services Information released Sept. 20, 1971.

8372-C1-P-70—Microwave Communications, Inc. (New), Site 1, Bloomington, Ill. Proposed station to be located 0.66 mile west of Bloomington, Ill. at latitude 40°28'34" N., longitude 89°02'02" W. Correct frequencies and azimuths to frequencies 5945.2 MHz on azimuth 314°22' toward Goodfield, Ill. Delete frequencies 5974.8 MHz and 6093.5 MHz on azimuth 300°18' to Deer Creek, Ill. Delete Deer Creek, Ill. as a point of communication.

Major Amendments—Continued

- 8373-C1-P-70—Microwave Communications, Inc. (New), Site 2, Goodfield, Ill. Change proposed station location to a new station 3.3 miles north-northwest of Goodfield, Ill. at latitude 40°40'26" N., longitude 89°18'01" W. Correct frequencies and azimuths to frequencies 6197.2 MHz on azimuth 134°11' toward Bloomington, Ill. and 6226.9 MHz on azimuth 275°22' toward Peoria, Ill. Delete frequencies 6226.9 MHz and 6345.5 MHz on azimuth 120°03' toward Bloomington, Ill. and frequencies 11,175.0 MHz and 10,855.0 MHz on azimuth 291°02' toward Peoria, Ill.
- 8374-C1-P-70—Microwave Communications, Inc. (New), Site 3, Peoria, Ill. Proposed station to be located at 411 Hamilton Boulevard, Peoria, IL at latitude 40°41'39" N., longitude 89°35'20" W. Correct frequencies and azimuths to frequencies 5974.8 MHz on azimuth 95°11' to Goodfield, Ill., and 5945.2 MHz on azimuth 280°34' to Elmwood, Ill. Delete frequencies 11,225.0 MHz and 11,465.0 MHz on azimuth 110°55' to Deer Creek, Ill. and frequencies 6226.9 MHz and 6345.5 MHz on azimuth 266°24' to Farmington, Ill. Delete Deer Creek, Ill. and Farmington, Ill. as points of communication.
- 8375-C1-P-70—Microwave Communications, Inc. (New), Site 4, Elmwood, Ill. Change proposed station location to a new station 3.3 miles southeast of Elmwood, Ill. at latitude 40°44'31" N., longitude 89°55'44" W. Correct frequencies and azimuths to frequencies 6197.2 MHz on azimuth 100°21' toward Peoria, Ill. and 6226.9 MHz on azimuth 299°27' toward Galesburg, Ill. Delete frequencies 5945.2 MHz and 6123.1 MHz on azimuth 86°09' to Peoria, Ill. and frequencies 6034.2 MHz and 6152.8 MHz on azimuth 311°07' to Galesburg, Ill.
- 8376-C1-P-70—Microwave Communications, Inc. (New), Site 5, Galesburg, Ill. Change proposed station location to a new station 1.7 miles southeast of Galesburg, Ill. at latitude 40°55'15" N., longitude 90°20'54" W. Correct frequencies and azimuths to frequencies 5974.8 MHz on azimuth 119°11' toward Elmwood, Ill. and 5945.2 MHz on azimuth 332°36' toward Boden, Ill. Delete frequencies 6197.2 MHz and 6315.9 MHz on azimuth 130°50' to Farmington, Ill. and frequencies 6256.5 MHz and 6375.2 MHz on azimuth 329°50' to Matherville, Ill. Delete Farmington, Ill. and Matherville, Ill. as points of communication.
- 8377-C1-P-70—Microwave Communications, Inc. (New), Site 6, Boden, Ill. Change proposed station location to a new station 1.3 miles north-northwest of Boden, Ill. at latitude 41°16'35" N., longitude 90°35'34" W. Correct frequencies and azimuths to frequencies 6197.2 MHz on azimuth 152°27' toward Galesburg, Ill. and 6226.9 MHz on azimuth 332°05' toward Blue Grass, Iowa. Delete frequencies 6004.5 MHz and 6123.1 MHz on azimuth 149°41' to Galesburg, Ill. and frequencies 5945.2 MHz and 6063.8 MHz on azimuth 02°08' to Davenport, Ill. Delete Davenport, Ill. as a point of communication.
- 8378-C1-P-70—Microwave Communications, Inc. (New), Site 7, Blue Grass, Iowa. Change proposed station location to a new station 2.6 miles north-northwest of Blue Grass, Iowa at latitude 41°32'50" N., longitude 90°47'02" W. Correct frequencies and azimuths to frequency 5974.8 MHz on azimuth 151°57' toward Boden, Ill. Delete frequencies 6226.9 MHz and 6345.5 MHz on azimuth 182°08' toward Matherville, Ill. Delete Matherville, Ill. as a point of communication.

[FR Doc.72-1217 Filed 1-27-72;8:46 am]

FEDERAL HOME LOAN BANK BOARD

[No. 72-83]

LABOR-MANAGEMENT RELATIONS

General Provisions and Implementation of Rules

JANUARY 20, 1972.

Resolved, That the Board hereby adopts, effective January 20, 1972, regulations governing labor-management relations, to establish procedures under which the Board will recognize, consult with, negotiate with, and approve and administer agreements with labor organizations, and resolve disputes and appeals arising therefrom, and directs that a copy of said regulations be placed in the Minute Exhibit File.

Resolved further, That the Board directs the Secretary to transmit these regulations for publication in the FEDERAL REGISTER.

By the Federal Home Loan Bank Board.

[SEAL]

JACK CARTER,
Secretary.

GENERAL PROVISIONS

SECTION 1.01 *Purpose.* These regulations implement the provisions of Executive Order 11491, as amended (34 F.R.

8191, 36 F.R. 17319), by establishing procedures under which the Board will recognize, consult with, negotiate with, and approve and administer agreements with labor organizations, and resolve disputes and appeals arising therefrom.

SEC. 1.02 *Policy.* (a) The Board recognizes the right of its employees to form, join, and assist any lawful labor organization which exists for the purpose of dealing with management officials concerning matters affecting employment. This right may be exercised freely and without restraint, coercion, or discrimination.

(b) The Board's management officials will recognize, consult with, and negotiate with lawful and qualified labor organizations in good faith and in full compliance with governing laws, regulations, and Executive Orders.

(c) Nothing in these regulations nor in any agreement entered into thereunder shall restrict the Board of its officials in any emergency situation from taking any lawful and necessary action to carry out the Board's mission.

SEC. 1.03 *Employee participation.* (a) These regulations cover all employees of the Board.

(b) The following employees may not act as representatives or participate in the management of any labor organization seeking or holding exclusive recognition or national consultation rights with the Board:

- (1) Management officials;
 - (2) Supervisors;
 - (3) Employees engaged in personnel work in other than a clerical capacity; and
 - (4) Designated Board representatives in consultations or negotiations with labor organizations.
- (c) Supervisors and management officials are excluded from units for which exclusive recognition is granted.
- (d) Exclusive recognition will not be granted to a labor organization representing a unit of guards, if the labor organization admits to membership, or is affiliated directly or indirectly with a labor organization which admits to membership, employees other than guards.

SEC. 1.04 *Intra-management communications.* The Executive Assistant to the Chairman shall be responsible for developing and implementing procedures for an intra-management communications system for supervisors. This shall include methods for dissemination of policy matters to supervisors and opportunities for the participation of supervisors in the development of such policies. This will include direct written communication, special conferences, and regular meetings. Supervisory training courses shall be constructed to include methods and principles of labor-management relations.

SEC. 1.05 *Definitions.* (a) The following terms have the same meaning as set forth in E.O. 11491, as amended (34 F.R. 8191, 36 F.R. 17319):

Activity.
Appropriate unit.
Assistant Secretary.
Council.
Employee.
Exclusive Recognition.
Guard.
Labor Organization.
National Consultation Rights.
Panel.
Standards of Conduct for Labor.
Organizations.
Supervisor.
Unfair Labor Practices.

(b) The following terms have the same meaning as set forth in 29 CFR Part 201 (§§ 201.10-201.26):

Area Administrator.
Certification.
Hearing Examiner.
Hearing Officer.
Party.
Regional Administrator.

(c) *Management Official.* The term "Management official" means any employee responsible for making, recommending, or administering policies or procedures which control the activities of one or more organizational units of the Board.

(d) *Board.* The term "Board" means the Federal Home Loan Bank Board, including the Federal Savings and Loan Insurance Corporation.

IMPLEMENTATION OF RULES

SEC. 1.11 *Responsible officials.* (a) The Chairman of the Board shall be responsible for labor-management relations affecting the Board and for the implementation of the provisions of E.O. 11491, as amended.

(b) The Executive Assistant to the Chairman shall advise the Chairman with respect to labor-management relations affecting the Board. He, or his designated representative, shall also be responsible for all representations and reports from the Board to the Federal Labor Relations Council, the Federal Service Impasses Panel, and the Assistant Secretary of Labor for Labor-Management Relations and for all actions involving the recognition, consultation, negotiations, approval, and administration of agreements and the resolution of disputes and appeals thereunder.

SEC. 1.12 Activities of labor organizations—(a) General. Customary and routine facilities and services may be furnished by the Board, upon request, on an impartial basis, to labor organizations having equivalent status. The facilities and services that may be furnished include those that do not involve direct costs and that can be used during non-duty hours of the employees who request them.

(b) **Membership solicitation.** Labor organizations may solicit membership among employees during the nonduty hours of such employees. No employee may be granted official leave to solicit membership. Labor organization representatives may post or distribute literature or hold organizational meetings to solicit membership, but permission may not be extended for such activities in a unit in which another labor organization has been granted exclusive recognition unless a valid, timely challenge to such recognition has been filed and rules for election campaigning have been adopted.

(c) **Employee lists.** Lists of names, positions, titles, grades, salaries, and/or duty stations of eligible employees in a unit or a proposed unit may be furnished by the Director of Personnel to requesting labor organizations. If the cost of preparing such lists is significant, a charge may be made to recover the actual cost. In the case of labor organizations granted exclusive recognition, the frequency with which updated lists of unit employees are furnished will be a matter for negotiation. Where a representation election is scheduled, lists of eligible employees in the unit shall be furnished without charge to each organization which will appear on the ballot. Lists of employees' home addresses or telephone numbers will not be furnished to labor organizations.

(d) **Meeting space.** Meeting space may be made available outside regular working hours for meetings of labor organization members if such action will not conflict with the provisions of a negotiated agreement.

(e) **Distribution and posting of notices and bulletins.** Subject to published guidelines, labor organization notices or bulletins may be distributed or posted only in areas designated by a responsible official. Literature posted or distributed within the premises of the Board must not violate any law or the security of the operational responsibilities of any unit

or contain scurrilous or libelous material. Violation of these standards is grounds for revocation of permission to distribute or post such material.

(f) **Use of official time.** (1) Activities concerning the internal management of labor organizations may not be conducted within regular working hours of the employees involved, unless such employees are on approved annual leave or leave without pay.

(2) Employees representing a recognized labor organization may be permitted to count as official duty time half the time necessary for the negotiation of a labor-management agreement, including any ground rules governing negotiating procedures, but not in excess of 40 hours.

(3) An employee who is an official or representative of an organization holding exclusive recognition may be excused without charge of leave for the purpose of attending a training session sponsored by a labor organization if (i) the subject matter of such training is of mutual concern to the Government and the employee in his capacity as an organization representative and (ii) the Government's interest will be served by the employee's attendance. Such excused time may not normally exceed eight (8) hours for any individual within a 12-month period.

(g) **Organizations holding national consultation rights.** A labor organization granted national consultation rights shall have the rights granted to such organizations by section 9(b) of E.O. 11491, as amended.

(h) **Organizations having exclusive recognition.** A labor organization having exclusive recognition in an appropriate unit shall have the rights and obligations granted such organizations by section 10(e) and section 11 (a) and (b) of E.O. 11491, as amended.

SEC. 1.13 Negotiation and effect of agreements—(a) Time of negotiations. Times and places of negotiation of agreements with organizations having exclusive recognition shall be mutually agreeable to management officials and to such organizations.

(b) **Applicability of agreements.** Agreements shall be applicable only to the unit for which negotiated and shall not contain any provision contrary to any law, Civil Service Commission regulation, or published Board policy or regulation in effect on the date of approval of the agreement. Conflicts with any such Board policy may be waived by an appropriate official in response to a joint request by the parties to the negotiations.

(c) **Effect of agreements.** For the stated duration of an agreement, such agreement shall have the full force and effect of regulations within the applicable units. During this period, such agreement may be modified only by the passage of legislation, the issuance of Civil Service Commission or other controlling regulations, the issuance of Board regulations required by law or other appropriate authorities, or the mutual agreement of the parties. When an agreement expires, the applicable Board regulations

in effect on such expiration date shall be controlling.

(d) **Minimum elements of agreements.** An agreement negotiated with a labor organization having exclusive recognition must contain, as a minimum, the following:

(1) A list of parties to the agreement;

(2) A description of the specific units involved;

(3) A procedure, applicable only to such units, for the consideration of grievances over the interpretation and application of the agreement, pursuant to section 13 of E.O. 11491, as amended.

(4) Statements incorporating the provisions of subsections (a), (b), and (c) of section 12 of E.O. 11491, as amended, and a statement that such provisions shall apply to all supplemental, implementing, subsidiary, or informal agreements.

(e) **Negotiable matters.** Listed below are examples of matters which, among others, are negotiable with the Board. Nothing in these regulations prescribes what, if any, provisions are to be negotiated. However, all agreements must comply with the requirements of paragraph (d) of this section.

(1) Provisions for cooperative efforts between Union representatives and the appropriate agency officials in the development of the agency's Equal Employment Opportunity Program.

(2) Appropriate arrangements, consistent with law and governing regulations, for employees adversely affected by reorganizations or technological change.

(3) **Duration of agreements: Provided,** That no agreement will exceed 2 years in duration. Provisions may be negotiated for the automatic renewal of an agreement for equivalent periods if neither party has requested negotiation by the 60th day prior to its terminal date. Agreements may be extended by the mutual consent of both parties for specified, limited periods during which the resolution of negotiability or other issues arising during renegotiation is being sought. Agreements must be brought into conformance with current published Board policy and regulations at the time they are negotiated, renewed, or extended.

(f) **Efforts to achieve agreement.** Management and labor organization officials have mutual responsibility for negotiating in good faith. Every effort must be made to avoid or resolve deadlocks and to achieve agreement. The use of joint fact-finding committees, the seeking of guidance from the Director of Personnel or the headquarters of the labor organization involved, or both, and the use of a third party from within or outside the Board for consultation or advice are all permissible methods of seeking resolution of deadlocks in negotiations.

(g) **Disputes concerning negotiability.** When a dispute arises between management officials and a labor organization having exclusive recognition over the interpretation of any published regulation or a controlling agreement that affects the negotiability of any matter, the labor organization may present its position on

the matter in writing to the Executive Assistant to the Chairman who shall, within 5 calendar days of receipt of such writing issue a decision in writing on the negotiability question. This decision may be appealed in writing to the Chairman within 10 calendar days of receipt of the decision. A decision by the Chairman shall be the final agency decision.

(h) *Negotiation impasses.* (1) Mediation shall be considered the primary means of resolving negotiation impasses.

(2) When a negotiation impasse remains unresolved, the issues involved will be referred to the national headquarters of the labor organization and to the Director of Personnel. If the impasse cannot then be resolved, it may be referred to the Federal Service Impasses Panel in accordance with rules established by the Panel.

(3) Arbitration or third party fact-finding with recommendations as a means of resolving negotiation impasses may be used only when authorized or directed by the Panel.

Sec. 1.14. *Unfair labor practice complaints.* (a) Any unfair labor practice for which there is an appeals procedure must be processed in accordance with such procedure.

(b) Any grievance with respect to the interpretation or application of a collective bargaining agreement between the Board and a labor organization accorded exclusive recognition which may also constitute an unfair labor practice under E.O. 11491, as amended, may be processed at the option of the aggrieved party under the negotiated grievance procedure contained in any such collective bargaining agreement, or the unfair labor practice procedure. The aggrieved party may not use both procedures, either simultaneously or sequentially.

Sec. 1.15 *Standards of conduct for labor organizations.* The Executive Assistant to the Chairman is responsible for assuring that the Standards of Conduct for Labor Organizations, set forth in section 18 of E.O. 11491, as amended, are met. Upon finding that a labor organization is in violation of any such Standard of Conduct, the Executive Assistant to the Chairman may authorize the transmission of a complaint to the Assistant Secretary.

Sec. 1.16 *Payroll withholding of labor organization dues.* (a) When a labor organization has exclusive recognition for a unit of employees, an agreement may be entered into with such organization under which eligible members may make voluntary allotments from their salary for the payment of dues to such organization. Such employee shall have the right to revoke such allotment at 6-month intervals.

(b) Where such allotment has been made by an employee, dues shall be withheld from his pay each pay period, but no dues will be withheld for any pay period in which the employee's net salary,

after other legal and required deductions, is insufficient to cover the amount of the allotment for dues.

(c) The cost for such payroll withholding service shall be a negotiable matter.

[FR Doc.72-1303 Filed 1-27-72; 8:52 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-44, etc.]

PANHANDLE PRODUCING CO., ET AL.

Findings and Order

JANUARY 14, 1972.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings dismissing applications, and canceling docket numbers.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and §157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and the appendix below.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The temporary and permanent certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. There are other rate increases which are suspended. Certain proceedings in which these increased rates are suspended or have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

The Commission's staff has reviewed the applications and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The temporary and permanent certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. There are other rate increases which are suspended. Certain proceedings in which these increased rates are suspended or have been collected subject to refund by any of these applicants and were equal to or

below area ceiling rates will be terminated.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention or protest to the granting of the applications has been filed.

At a hearing held on December 22, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10,000,000 Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefore should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the temporary and permanent certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) The applications pending in Docket Nos. CI64-1228 and CI71-154 are moot.

(8) In view of all the facts and circumstances in this case, the Commission's action herein is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a) (3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on applications terminate said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) With respect to any small producer sale made pursuant to the authorization herein, the small producer shall not be relieved from compliance with section 7(b) of the Natural Gas Act.

(E) The temporary and permanent certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in the appendix below.

(F) The proceedings in which applicants' increased rates have not been made effective and certain proceedings in which increased rates have been made effective subject to refund and are equal to or below the applicable area rate base are terminated as indicated in the appendix below.

(G) The applications pending in Dockets Nos. CI64-1228 and CI71-154 are dismissed.

(H) Dockets Nos. CS71-369 and CS71-944 are canceled.

By the Commission.

[SEAL]

KENNETH F. PLUMB,
Secretary.

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71-44 10-26-70	Panhandle Producing Co., et al.	1 G-8006		RI64-157, RI64-808, RI64-575,
	do.	2 G-8007		
	do.	3 G-3892		
	do.	4 G-9481		
CS72-95 8-2-71	Owen Oil Co., Inc.			
CS72-180 8-27-71	Estate of Gerald L. Reason			
CS72-218 9-9-71	J. Malcolm Shelton			
CS72-220 9-9-71	Presidio Exploration, Inc.	1 CI71-182		
CS72-221 9-9-71	Wilhelmina duP. Ross et al.	2 G-13000		RI70-827, RI70-824.
CS72-222 9-9-71	John J. Nolan	3 G-12993		
CS72-251 9-20-71	Olympia Exploration Co.			
CS72-253 9-20-71	Sidney Gore			
CS72-258 9-24-71	William E. Portman et al.	1 CI64-599		
CS72-259 9-24-71	do.	2 CI66-691		RI67-373.
CS72-259 9-24-71	Jack Cutbirth			
CS72-292 9-29-71	Beard Oil Co., et al.	1 CI64-863		
	do.	2 CI64-1228		(U).
	do.	3 C965-754		
	do.	4 CI65-922		
	do.	5 CI67-350		RI68-517.
	do.	6 CI68-231		
	do.	7 CI71-154		
CS72-293 9-29-71	C. C. Freeman Estate			
CS72-296 9-27-71	McCarrik, Gouger, & Mitchell et al.	2 G-4177		
	do.	3 G-4175		
	do.	4 G-11650		
	do.	5 G-19045		RI62-343.
	do.	6 G-19049		RI70-140.
CS72-297 9-30-71	J. M. Tindall			
CS72-299 9-24-71	L. R. Gohlke			

¹ Temporary certificate.

[FR Doc.72-1174 Filed 1-27-72; 8:45 am]

[Dockets Nos. RI72-166, etc.]

R. C. WYNN ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

JANUARY 19, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

¹ Does not consolidate for hearing or dispose of the several matters herein.

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL]

KENNETH F. PLUMB,
Secretary.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI72-166..	R. C. Wynn.....	1	9	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex., San Juan Basin).	\$44,882	12-20-71		6-20-72	14.2693	29.23	RI70-708.
	do.....			do.....	44,882	12-20-71		6-20-72	15.2693	29.23	RI70-708.
RI72-167..	Phillips Petroleum Co.....	492	1	El Paso Natural Gas Co. (James Ranch Area, Eddy County, N. Mex., Permian Basin).	3,960	12-27-71		2-27-72	24.5	30.0	RI70-1443.

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
 †Includes 1-cent minimum guarantee for liquids.
 ‡Initial rate under Mitchell type certificate.

§Increase to contract rate which is subject to upward or downward B.t.u. adjustment.
 ¶The pressure base is 14.65 p.s.i.a.

The proposed increases by R. C. Wynn for sales to El Paso in San Juan Basin are based on a favored-nation clause which was allegedly activated by Aztec Oil & Gas Co.'s unilateral rate increase to 29.23 cents which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. El Paso Natural Gas Co. and Southern California Gas Co. are expected to protest these favored nation increases, as they have previous filings, on the basis that they are not contractually authorized. In view of the contractual problem presented, the hearing herein shall concern itself with the contractual basis for these favored-nation filings as well as the justness and reasonableness of the proposed increased rates. The proposed increases exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore are suspended for 5 months.

Phillips' initial rate was authorized under a Mitchell type certificate. A 1-day suspension is therefore appropriate for its proposed rate increase.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

In view of all the facts and circumstances in these cases, the Commission's action herein of permitting the subject rate increases to become effective, subject to refund, at the expiration of the respective suspension periods ordered herein pending Commission determination of the justness and reasonableness of such increased rates is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder.

[FR Doc.72-1225 Filed 1-27-72;8:45 am]

FEDERAL RESERVE SYSTEM

BANCOHIO CORP.

Acquisition of Bank

BancOhio Corp., Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the Central National Bank at Cambridge, Cambridge, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of

Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 24, 1972.

Board of Governors of the Federal Reserve System, January 24, 1972.

[SEAL] TYNAN SMITH,
 Secretary of the Board.
 [FR Doc.72-1246 Filed 1-27-72;8:46 am]

CASCO-NORTHERN CORP.

Formation of Bank Holding Company

Casco-Northern Corp., Portland, Maine, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Casco Bank & Trust Co., Portland, Maine, and Northern National Bank, Presque Isle, Maine. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 24, 1972.

Board of Governors of the Federal Reserve System, January 24, 1972.

[SEAL] TYNAN SMITH,
 Secretary of the Board.
 [FR Doc.72-1247 Filed 1-27-72;8:46 am]

FIRST FINANCIAL CORP.

Acquisition of Bank

First Financial Corporation, Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent of the voting shares of Union Trust National Bank of St. Petersburg, St. Petersburg, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in

writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 24, 1972.

Board of Governors of the Federal Reserve System, January 24, 1972.

[SEAL] TYNAN SMITH,
 Secretary of the Board.
 [FR Doc.72-1248 Filed 1-27-72;8:46 am]

FIRST FINANCIAL GROUP, INC.

Formation of Bank Holding Company

First Financial Group, Inc., Janesville, Wis., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The First National Bank and Peoples State Bank, both of Janesville, Wis. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 21, 1972.

Board of Governors of the Federal Reserve System, January 20, 1972.

[SEAL] TYNAN SMITH,
 Secretary of the Board.
 [FR Doc.72-1286 Filed 1-27-72;8:4 am]

NCNB CORP.

Proposed Acquisition of C. Douglas Wilson & Co.

NCNB Corp., Charlotte, N.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of C. Douglas Wilson & Co., Greenville, S.C. Notice of the application was published in newspapers and circulated in:

Anderson, S.C., The Anderson Independent, December 18, 1971.
 Charleston, S.C., The News and Courier, December 17, 1971.

Columbia, S.C., The Columbia State, December 17, 1971.
 Florence, S.C., The Florence News, December 17, 1971.
 Greenville, S.C., The Greenville News, December 18, 1971.
 Spartanburg, S.C., The Spartanburg Herald, December 16, 1971.

Applicant states that the proposed subsidiary engages in the activities of originating, selling and servicing residential and commercial mortgage loans, and originating construction and development mortgage loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 24, 1972.

Board of Governors of the Federal Reserve System, January 24, 1972.

[SEAL]

TYNAN SMITH,
 Secretary of the Board.

[FR Doc.72-1249 Filed 1-27-72; 8:46 am]

NATIONAL BANCSHARES CORPORATION OF TEXAS

Order Approving Formation of Bank Holding Company

National Bancshares Corporation of Texas, San Antonio, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Bank of Commerce of San Antonio (Commerce Bank), San Antonio, Texas, and 51 percent or more of the voting shares of Randolph Field National Bank (Randolph Bank), Universal City, Tex. The bank into which Commerce Bank is to be merged has no significance except as a means of acquiring all of the shares

of Commerce Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Commerce 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 is a newly organized corporation. Consummation of the proposal herein would result in Applicant controlling \$276.8 million representing 1 percent of total commercial bank deposits in the State and applicant would become the 10th largest banking organization and the 6th largest bank holding company in Texas. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through October 31, 1971.)

Commerce Bank (\$264 million in deposits) and Randolph Bank (\$12.8 million in deposits) are both located within the San Antonio banking market which is approximated by Bexar, Guadalupe, and Comal Counties. On the basis of deposits, Commerce Bank is the second largest of 39 banking organizations within the market controlling 17.1 percent of commercial bank deposits; Randolph Bank is the 24th largest banking organization holding 0.8 percent of commercial bank deposits.

Commerce Bank is a large wholesale bank which competes with other large banks throughout Texas and the nation, while Randolph Bank is a small retail-oriented institution located 18 miles from Commerce Bank. Since 1969, several directors of Commerce Bank have held indirect ownership of 51 percent of the voting shares of Randolph Bank. This relationship has had the effect of eliminating any meaningful competition between the banks, though it is doubtful that any such competition existed prior to this time. Thus, Commerce Bank and Randolph Bank do not compete with each other to any significant extent, and the development of such competition, in the future, even in the event of disaffiliation, appears unlikely because of the large number of intervening banks, the distance involved, and the unit banking laws of Texas. Moreover, the slight increase in concentration in the market is not considered to be significant in the light of the numerous existing banking alternatives. Accordingly, on the basis of the record before it, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area.

The financial, managerial, and future prospects of applicant and Commerce Bank are regarded as satisfactory. Although acquisition of the Randolph Bank shares involves short-term debt, applicant and Commerce Bank appear to be capable of servicing and repaying such debt without undue strain; the proposed debt to capital ratio does not

appear to be at an unsatisfactory level. Future prospects of the Randolph Bank will be improved by affiliation with applicant since Randolph Bank will have easier access to necessary capital funds and a pool of trained management personnel. Affiliation with applicant will also provide Randolph Bank with access to the expertise of Commerce Bank particularly with respect to trust matters, international banking, and other specialized services. Thus, considerations related to the convenience and needs of the community as well as financial, managerial, and future prospects of applicant and the banks involved lend some weight for approval. It is the Board's judgment that the proposed transaction is in the public interest and 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 Dallas pursuant to delegated authority.

By order of the Board of Governors,¹
 January 21, 1972.

[SEAL]

TYNAN SMITH,
 Secretary of the Board.

[FR Doc.72-1250 Filed 1-27-72; 8:46 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.;
 Temporary Reg. F-134]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the Federal Government in a telecommunications service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the Federal Government before the Louisiana Public Service Commission (Docket No. 11048) in a proceeding involving the rates for telecommunications service provided by the South Central Bell Telephone Co.

b. The Secretary of Defense may re-delegate this authority to any officer, official, or employee of the Department of Defense.

¹ Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sheehan.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROD KREGER,
Acting Administrator
of General Services.

JANUARY 21, 1972.

[FR Doc.72-1285 Filed 1-27-72;8:49 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-2]

GODDARD SPACE FLIGHT CENTER

Final Environmental Impact Statement; Public Notice Regarding Availability

Notice is hereby given of the public availability of the final Environmental Impact Statement for the Goddard Space Flight Center of the National Aeronautics and Space Administration.

Comments on the draft Environmental Statement for the Goddard Space Flight Center were previously solicited from State and local agencies and members of the public through a notice in the FEDERAL REGISTER of March 18, 1971.

Copies of the draft statement were sent to the Office of Management and Budget, the Council on Environmental Quality, and the Environmental Protection Agency.

Copies of the final statement will be furnished to the Office of Management and Budget and the Council on Environmental Quality.

Copies of the final statement may be purchased (price \$1 each) or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), Independence Avenue SW., Washington, DC 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Flight Research Center, NASA (Building 4800, Room 1017), Post Office Box 273, Edwards, CA 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(f) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(g) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(h) Manned Spacecraft Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, Ala. 35812.

(j) Mississippi Test Facility, NASA (Building 1100, Room A-213), Bay St. Louis, Miss. 39520.

(k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Station, NASA (Library Building, Room E-105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 21st day of January 1972.

By direction of the Administrator.

HOMER E. NEWELL,
Associate Administrator,
National Aeronautics and Space
Administration.

[FR Doc.72-1284 Filed 1-27-72;8:49 am]

OFFICE OF EMERGENCY PREPAREDNESS

THOMAS R. CASEY

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 F.R. 37, January 5, 1971) to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742), I hereby appoint Thomas R. Casey as Federal Coordinating Officer to perform the duties specified by section 201 of that Act for New Jersey disaster number 310 with date of declaration, September 4, 1971, to be effective January 24, 1972.

This notice changes my designation of November 22, 1971 (36 F.R. 22795, November 30, 1971) with respect to the same disaster listed, naming Albert D. O'Connor as Federal Coordinating Officer.

Dated: January 24, 1972.

G. A. LINCOLN,
Director,

Office of Emergency Preparedness.

[FR Doc.72-1287 Filed 1-27-72;8:49 am]

THOMAS R. CASEY

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 F.R. 37, January 5, 1971) to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742), I hereby appoint Thomas R. Casey as Federal Coordinating Officer to perform the duties specified by section 201 of that Act for New York disaster number 311 with date of declaration, September 13, 1971, to be effective January 24, 1972.

This notice changes my designation of November 22, 1971 (36 F.R. 22795, November 30, 1971) with respect to the same disaster listed, naming Albert D. O'Connor as Federal Coordinating Officer.

Dated: January 24, 1972.

G. A. LINCOLN,
Director,

Office of Emergency Preparedness.

[FR Doc.72-1288 Filed 1-27-72;8:49 am]

PANAMA CANAL

CANAL ZONE POSTAL SERVICE

Postage Rates and Fees; Temporary Changes

The Canal Zone Government hereby gives notice of increased postage rates as set out in the schedule below. These rates will govern during the period that the temporary postage rates which have been prescribed by the U.S. Postal Service, to become effective January 24, 1972, continue in effect (36 F.R. 24953, Dec. 24, 1971; corrected, 36 F.R. 25190-91, Dec. 29, 1971).

Mail category	Postage rate unit	Rate in cents
Third class:		
Single-piece rate.....	2 ozs.....	8
Do.....	3 ozs.....	10
Do.....	4 ozs.....	13
Do.....	5 ozs.....	16
Do.....	6 ozs.....	18
Do.....	7 ozs.....	21
Do.....	8 ozs.....	24
Do.....	9 ozs.....	26
Do.....	10 ozs.....	29
Do.....	11 ozs.....	32
Do.....	12 ozs.....	34
Do.....	13 ozs.....	37
Do.....	14 ozs.....	40
Do.....	15 ozs.....	42
Do.....	Up to, but not including 16 ozs.	46
Regular bulk rate:		
Circulars, etc.....	Pound.....	28
Do.....	Minimum per piece.....	5
Books, catalogs, etc.....	Pound.....	21
Do.....	Minimum per piece.....	5

Effective date. The changes in postal rates provided in this order shall become effective on January 24, 1972.

(2 C.Z.C. secs. 1131-1133, 76A Stat. 38-39)

Date signed: January 17, 1972.

[SEAL] DAVID S. PARKER,
Governor.

[FR Doc.72-1175 Filed 1-27-72;8:45 am]

TARIFF COMMISSION

[337-26]

SPHYGMOMANOMETERS

Notice of Finding

Upon completion of its investigation (337-26) under section 337 of the Tariff Act of 1930, in response to a complaint of W. A. Baum Co., Inc., the Commission finds no violation of section 337(a) of the Tariff Act of 1930 by unfair methods of

competition and unfair acts in the importation and sale of certain sphygmomanometers, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Under the statute (19 U.S.C. 1337(c)) a rehearing before the Commission may be requested. In accordance with § 201.14 of the Commission's rules of practice and procedure (19 CFR 201.14), a motion for a rehearing may be granted for good cause shown. Any such motion for a rehearing must be in writing and filed with the Secretary of the U.S. Tariff Commission, Washington, D.C. 20436, within twenty (20) days after publication of this notice. The motion must state clearly the grounds which are relied upon for the granting of a rehearing and must be accompanied by 19 true copies.

Issued January 25, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-1280 Filed 1-27-72; 8:49 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Modification to Area Determination Decisions for Specified Localities in Certain States

Modification to area determination decisions for specified localities in Alabama, Florida, Illinois, Indiana, Kansas, Michigan, Mississippi, New York,

Oklahoma, Pennsylvania, Tennessee, and Texas, and Washington, D.C.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM-1721, AM-1728, AM-1730...	Aug. 11, 1971
AM-332, AM-338, AM-341, AM-342, AM-351, AM-353, AM-365, AM-366, AM-367.....	Aug. 13, 1971
AM-373, AM-375, AM-376, AM-377, AM-378, AM-379, AM-380, AM-382, AM-383, AM-384, AM-385, AM-386, AM-388, AM-389, AM-390, AM-391, AM-392.....	Aug. 18, 1971
AM-442, AM-451, AM-460, AM-489, AM-490, AM-499, AM-500, AM-502, AM-503, AM-1843, AM-1848, AM-1850, AM-1851, AM-1854, AM-1857, AM-1863, AM-1864....	Aug. 20, 1971
AM-3602, AM-3611, AM-3612, AM-3621, AM-3622, AM-3623, AM-3624, AM-3625....	Aug. 25, 1971
AM-7489	Nov. 12, 1971
AM-7706, AM-7716, AM-7718..	Nov. 19, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title

29 of Code of Federal Regulations, procedure for predetermination of wage rates, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. No. 553 is set forth in the document being modified.

The modifications to the area wage determination decisions listed above are set forth below.

Signed at Washington, D.C., this 21st day of January 1972.

HORACE E. MENASCO,
Administrator, Employment
Standards Administration.

MODIFICATIONS

Classifications	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-442-86 F.R. 16349, Jefferson County, Ala., Modification No. 3						
CHANGE:						
Electricians:						
Electricians.....	\$6.85	\$0.25	1%	.....	1%	.....
Cable splicers.....	7.10	.25	1%	.....	1%	.....
Roofers.....	4.55	.....	\$0.20	.....	.....	.....
Roofers' helpers.....	3.40	.....	.20	.....	.....	.....
Lathers.....	5.85	.....	.10	.....	\$0.01	.....
WD No. AM-451-86 F.R. 16367, Brevard and Volusia Counties, Fla., Modification No. 2						
(Cape Kennedy, Kennedy Space Flight Center, and Patrick Air Force Base only.)						
CHANGE:						
Building construction:						
Carpenters.....	5.90	.20	.25	.....	.01	.....
Piledrivermen.....	6.15	.20	.25	.....	.01	.....
Soft floor layers.....	5.90	.20	.25	.....	.01	.....
WD No. AM-460-86 F.R. 16397, Palm Beach County, Fla., Modification No. 1						
CHANGE:						
Building construction:						
Carpenters.....	7.10	.30	.15	.....	.02	.....
WD No. AM-532-86 F.R. 15166, Kane County, Ill., Modification No. 6						
CHANGE:						
Sheet metal workers.....	7.56	.30	.15	\$0.57	.02	.....
WD No. AM-533-86 F.R. 15201, Sangamon County, Ill., Modification No. 2						
CHANGE:						
Marble setters.....	7.20	.35	.....	.....	.....	.....
Terrazzo workers.....	7.20	.35	.....	.....	.....	.....
Tile setters.....	7.20	.35	.....	.....	.....	.....

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-341-86 F.R. 15213, Will County, Ill., Modification No. 5</i>						
CHANGE:						
Bricklayers.....	9.50	.30				
Stonemasons.....	9.50	.30				
<i>WD No. AM-342-86 F.R. 15218, Winnebago County, Ill., Modification No. 5</i>						
CHANGE:						
Modification No. 2-36 F.R. 24949, Dec. 24, 1971, to Modification No. 3.						
Modification No. 3-37 F.R. 640, Jan. 14, 1972, to Modification No. 4.						
Bricklayers.....	6.80	.20	.40	.45		
Plumbers and steamfitters.....	6.75	.35	.40		.02	
Line construction:						
Linemen.....	7.65	.15	1%		0.25%	
Groundmen.....	5.00	.15	1%		.25%	
Groundmen equipment operators and tractor operators.....	5.20	.15	1%		.25%	
Sheet metal workers:						
Eastern one-half of county.....	7.15	.20	\$0.30	.50		
Stonemasons.....	6.80	.30	.40	.45		
<i>WD No. AM-351-86 F.R. 15277, Allen County, Ind., Modification No. 4</i>						
CHANGE:						
Building construction:						
Cement masons.....	6.90	.30				
Electricians.....	7.70	.18	1%		\$0.04	
Ironworkers.....	8.25	.40	\$0.65		.01	
Painters:						
Brush and roller.....	5.70	.25	.15		.05	
Spray and sandblasting.....	6.70	.25	.15		.05	
Highwork:						
31 feet to 60 feet.....	6.10	.25	.15		.05	
61 feet to 100 feet.....	6.50	.25	.15		.05	
Over 100 feet.....	6.70	.25	.15		.05	
<i>WD No. AM-353-86 F.R. 15287, Benton and Tippecanoe Counties, Ind., Modification No. 4</i>						
CHANGE:						
Modification No. 4-36 F.R. 23102, Dec. 3, 1971, to Modification No. 3.						
<i>WD No. AM-365-86 F.R. 15365, Adams, Allen, De Kalb, Elkhart, Huntington, Kosciusko, La Grange, Marshall, Noble, Starke, Steuben, Wells, and Whitley Counties, Ind., Modification No. 2</i>						
CHANGE:						
Cement masons:						
Starke County.....	7.50	.30	.70		.03	
Marshall County.....	6.82	.30	.30		.01	
Remainder of counties.....	6.90	.30				
Ironworkers:						
Elkhart, Marshall, and Starke Counties, western one-half of La Grange County, and north-west portion of Kosciusko County.....	8.10	.40	.65		.01	
Remainder of counties.....	8.25	.40	.65		.01	
<i>WD No. AM-366-86 F.R. 15370, Benton, Carroll, Cass, Clinton, Fulton, Howard, Jasper, Miami, Newton, Pulaski, Tippecanoe, Tipton, Wabash, and White Counties, Ind., Modification No. 3</i>						
CHANGE:						
Cement masons:						
Remaining counties.....	6.65	.30	.20			
Ironworkers:						
Wabash County.....	8.25	.40	.65		.01	
Fulton and Pulaski Counties.....	8.10	.40	.65		.01	
Southern one-half of Jasper County, western two-thirds of Clinton County and remainder of counties.....	8.225	.40	.65		.02	
<i>WD No. AM-367-86 F.R. 15374, Blackford, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Jay, Johnson, Madison, Marion, Randolph, Rush, Shelby, Union, and Wayne Counties, Ind., Modification No. 2</i>						
CHANGE:						
Cement masons:						
Shelby County.....	6.70					
Marion and Johnson Counties, southern half of Hamilton County and western half of Hancock County.....	6.63				.04	
Ironworkers:						
Blackford and Grant Counties, and northeastern corner of Delaware County.....	8.25	.40	.65		.01	
<i>WD No. AM-3,621-86 F.R. 16339, Douglas, Jefferson, and Shawnee Counties, Kans., Modification No. 1</i>						
CHANGE:						
Electricians.....						
Power equipment operators (Shawnee and Douglas Counties):	7.65	.25	1%+0.30		3 1/2%	
Master mechanic.....	6.50	.25	\$0.25	.25	\$0.05	
Group I.....	6.25	.25	.25	.25	.05	
Group II:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	6.00	.25	.25	.25	.05	
Blades, all types, dozer; scoop operator, all types.....	6.25	.25	.25	.25	.05	
Group III:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	5.75	.25	.25	.25	.05	
Group IV:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	5.40	.25	.25	.25	.05	
Group V:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	5.50	.25	.25	.25	.05	
Power equipment operators (Jefferson County):						
Master mechanic.....	5.25	.25	.25	.25	.05	
Group I.....	5.00	.25	.25	.25	.05	
Group II:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	4.75	.25	.25	.25	.05	
Blades, all types, dozer; scoop operator, all types.....	5.00	.25	.25	.25	.05	
Group III:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	4.60	.25	.25	.25	.05	
Group IV:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	4.15	.25	.25	.25	.05	
Group V:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	4.25	.25	.25	.25	.05	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-3,622-36 F.R. 10845, Johnson, Leavenworth, Miami, and Wyandotte Counties, Kans., Modification, No. 4</i>						
Electricians:						
Miami County.....	7.65	.25	1%+0.30			3/10%
Johnson County:						
That portion east of Monticello, Olathe, and Spring Hill Townships.....	7.95	.15	1%+0.20	.70		\$0.03
Remainder of county.....	7.65	.25	1%+0.30			3/10%
Wyandotte County.....	7.95	.15	1%+0.20	.70		\$0.03
Leavenworth County:						
Delaware, High Prairie, Kickapoo, and Leavenworth Townships only.....	7.95	.15	1%+0.20	.70		.03
Remainder of county.....	7.65	.25	1%+0.30			3/10%
Power equipment operators (Miami County):						
Master mechanic.....	5.25	.25	\$0.25			\$0.05
Group I.....	5.00	.25	.25			.05
Group II:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	4.75	.25	.25			.05
Blades, all types; dozer; scoop operator; all types.....	5.00	.25	.25			.05
Group III.....	4.50	.25	.25			.05
Group IV.....	4.15	.25	.25			.05
Group V.....	4.25	.25	.25			.05
<i>WD No. AM-3,623-36 F.R. 10849, Shawnee County, Kans., Modification No. 4</i>						
CHANGE:						
Site preparation and grading:						
Power equipment operators:						
Master mechanic.....	6.50	.25	.25	.25		.05
Group I.....	6.25	.25	.25	.25		.05
Group II:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	6.00	.25	.25	.25		.05
Blades, all types; dozer; scoop operator, all types.....	6.25	.25	.25	.25		.05
Group III.....	5.75	.25	.25	.25		.05
Group IV.....	5.40	.25	.25	.25		.05
Group V.....	5.50	.25	.25	.25		.05
<i>WD No. AM-3,624-36 F.R. 10853, Leavenworth County, Kans., Modification No. 5</i>						
CHANGE:						
Building construction:						
Electricians (remainder of county):						
Electricians-technician.....	7.95	.15	1%+0.20	.70		.03
<i>WD No. AM-3,625-36 F.R. 10859, Sedgewick County, Kans., Modification No. 2</i>						
CHANGE:						
Building construction:						
Carpenters:						
Carpenters.....	7.25					.03
Millwrights; piledrivermen.....	7.55					.03
Cement masons:						
Cement masons.....	7.00					
Trowelling machine operator.....	7.25					
Ironworkers.....	6.78	.20	\$0.25	.25		.02
Laborers:						
Common laborers.....	5.15	.35	.25			
Machine tool operators (air or electric); all sewer and drain in tile layers; mortar mixers and hod carriers and plaster tenders; all men erecting scaffolds and directly tending masons and mortar mixers for cement finishers; pipe dopers and pipe painters; work on swing scaffold; power buggies taking place of wheel barrows and concrete buggies; powdermen; gunnite nozzle man; gunnite rodman; core driller wagon drill—diamond; air track drill; sandblaster, nozzle man and/or potman.....	5.30	.35	.25			
Plasterers.....	6.50					
Site preparation and grading:						
Power equipment operators:						
Master mechanic.....	6.50	.25	.25	.25		.05
Group I.....	6.25	.25	.25	.25		.05
Group II:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	6.00	.25	.25	.25		.05
Blades, all types; dozer; scoop operator, all types.....	6.25	.25	.25	.25		.05
Group III.....	5.75	.25	.25	.25		.05
Group IV.....	5.40	.25	.25	.25		.05
Group V.....	5.50	.25	.25	.25		.05
<i>WD No. AM-7,718-36 F.R. 22101, Shawnee County, Kans., Modification No. 2</i>						
CHANGE:						
Site preparation and grading:						
Power equipment operators:						
Master mechanic.....	6.50	.25	.25	.25		.05
Group I.....	6.25	.25	.25	.25		.05
Group II:						
Asphalt plant operator; elevating grader operator; pushcat operator.....	6.00	.25	.25	.25		.05
Blades, all types; dozer; scoop operator, all types.....	6.25	.25	.25	.25		.05
Group III.....	5.75	.25	.25	.25		.05
Group IV.....	5.40	.25	.25	.25		.05
Group V.....	5.50	.25	.25	.25		.05

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-375-86 F.R. 15777, Allegan County, Mich., Modification No. 5</i>						
CHANGE:						
Building construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Carpenters.....	6.55	.35	.40		.01	
Ironworkers:						
Structural and ornamental.....	7.85	.50	.50		.02	
Reinforcing.....	7.80	.50	.50		.02	
<i>WD No. AM-375-86 F.R. 15787, Berrien County, Mich., Modification No. 5</i>						
CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Ironworkers:						
All categories.....	8.10	.40	.65		.01	
<i>WD No. AM-376-86 F.R. 15791, Calhoun County, Mich., Modification No. 6</i>						
CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Ironworkers:						
Structural and ornamental.....	7.85	.50	.50		.02	
Reinforcing.....	7.80	.50	.50		.02	
Roofers, composition.....	7.10					
Roofers, slate and tile.....	7.35					
<i>WD No. AM-377-86 F.R. 15795, Charlevoix County, Mich., Modification No. 4</i>						
CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Ironworkers:						
Structural and ornamental.....	7.85	.50	.50		.02	
Reinforcing.....	7.80	.50	.50		.02	
<i>WD No. AM-378-86 F.R. 15800, Chippewa and Mackinac Counties, Mich., Modification No. 5</i>						
CHANGE:						
Modification No. 2-36 F.R. 22126, Nov. 19, 1971, to Modification No. 4.						
ALSO CHANGE:						
Building construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Laborers:						
Construction laborers.....	4.60	.30	.20	.35		
Material mixers, mortar mixers (hand or machine), vibrator operators, concrete mixer operators, motor driven buggy operators, chipping hammers, tamping machines (whether run by air, electric, or gas), and sand blasters.....	4.70	.30	.20	.35		
Underground work:						
Muckers, caisson workers, miners, drillers, blasters.....	5.15	.30	.20	.35		
Blasters, miners, drillers, buster operators, and layers of all nonmetallic pipe, cement gun nozzle men.....	5.00	.30	.20	.35		
<i>WD No. AM-379-86 F.R. 15804, Emmet County, Mich., Modification No. 4</i>						
CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Ironworkers:						
Structural and ornamental.....	7.85	.50	.50		.02	
Reinforcing.....	7.80	.50	.50		.02	
Sheet metal workers.....	7.02	.35	.23	.60	.10	
<i>WD No. AM-380-86 F.R. 15809, Genesee County, Mich., Modification No. 4</i>						
CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
<i>WD No. AM-382-86 F.R. 15817, Grand Traverse and Leelanau Counties, Mich., Modification No. 4</i>						
CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Ironworkers:						
Structural and ornamental.....	7.85	.50	.50		.02	
Reinforcing.....	7.80	.50	.50		.02	
Sheet metal workers.....	7.02	.35	.23	.60	.10	
<i>WD No. AM-383-86 F.R. 15822, Huron County, Mich., Modification No. 5</i>						
CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
<i>WD No. AM-384-86 F.R. 15823, Ingham County, Mich., Modification No. 5</i>						
CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
<i>WD No. AM-385-86 F.R. 15823, Kalamazoo County, Mich., Modification No. 5</i>						
CHANGE:						
Modification No. 2-36 F.R. 22126, Nov. 19, 1971, to Modification No. 3.						
ALSO CHANGE:						
Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Roofers, composition.....	7.10					
Roofers, slate and tile.....	7.35					

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-386—36 F.R. 15837, Kent County, Mich., Modification No. 5</i>						
CHANGE: Building construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Carpenters.....	6.55	.35	.40		.01	
Cement masons.....	6.90	.32	.18		.02	
<i>WD No. AM-388—36 F.R. 15840, Marquette County, Mich., Modification No. 5</i>						
CHANGE: Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Laborers:						
Construction laborers.....	4.60	.30	.20	.35		
Material mixers, mortar mixers (hand or machine), vibrator operators, concrete mixer operators, motor driven buggy operators, chipping hammers, tamping machines (whether run by air, electric, or gas), and sand blasters.....	4.70	.30	.20	.35		
Underground work:						
Muckers, caisson workers, miners, driller, blaster.....	5.15	.30	.20	.35		
Blasters, miners, drillers, buster operators, and layers of all nonmetallic pipe, cement gun nozzle men.....	5.00	.30	.20	.35		
<i>WD No. AM-389—36 F.R. 15850, Mason County, Mich., Modification No. 5</i>						
CHANGE: Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Ironworkers:						
Structural and ornamental.....	7.85	.50	.50		.02	
Reinforcing.....	7.80	.50	.50		.02	
Roofers, compositions.....	7.10					
Roofers, slate and tile.....	7.35					
<i>WD No. AM-390—36 F.R. 15855, Muskegon and Oceana Counties, Mich., Modification No. 4</i>						
CHANGE: Building construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
Carpenters.....	6.55	.35	.40		.01	
Ironworkers:						
Structural and ornamental.....	7.85	.50	.50		.02	
Reinforcing.....	7.80	.50	.50		.02	
Roofers, composition.....	7.10					
Roofers, slate and tile.....	7.35					
<i>WD No. AM-391—36 F.R. 15801, Saginaw County, Mich., Modification No. 5</i>						
CHANGE: Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
<i>WD No. AM-392—36 F.R. 15867, St. Clair County, Mich., Modification No. 5</i>						
CHANGE: Building and heavy construction:						
Boilermakers.....	7.83	.50	1.00	1.00	.01	
<i>WD No. 489—36 F.R. 16461, Harrison and Pearl River Counties, Miss., Modification No. 4</i>						
CHANGE: Electricians:						
Electricians.....	6.50	.25	1%+0.10		c	
Cable spicers.....	6.75	.25	1%+0.10		c	
Roofers:						
Helpers.....	4.90					
Kettle men.....	3.75					
<i>WD No. AM-490—36 F.R. 16464, Hinds County, Miss., Modification No. 2</i>						
CHANGE: Roofers:						
Roofers.....	4.90					
Roofers' helpers.....	3.75					
<i>WD No. AM-1,721—36 F.R. 14908, New York, Bronx, Kings, Queens, and Richmond Counties, N.Y., Modification No. 3</i>						
CHANGE: Building construction:						
Painters:						
Interior.....	6.10	6 1/2%	6 1/2%+h	3%		
Interior and exterior swing scaffold work.....	7.41	6 1/2%	6 1/2%+h	3%		
Plumbers:						
Manhattan and Bronx.....	7.50	\$0.808	\$0.565	\$0.763	\$0.04	
<i>WD No. AM-1,728—36 F.R. 14945, Nassau County, N.Y., Modification No. 3</i>						
CHANGE: Building construction:						
Painters:						
Inwood, Lawrence, Cedarhurst, Woodmere, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lido Beach, Point Lookout, Gibson and part of Valley Stream:						
Interior.....	6.10	6 1/2%	6 1/2%+f	3%		
Interior and exterior swing scaffold.....	7.41	6 1/2%	6 1/2%+f	3%		
Sheet metal workers.....	9.05	3%+0.10	4%+0.40	3%+0.65	1/2 of 1%	
<i>WD No. AM-1,730—36 F.R. 14955, Oneida County, N.Y., Modification No. 4</i>						
CHANGE: Building construction:						
Laborers, building:						
Townships of Forestport, Remsen, Trenton, Marcy, Deerfield, Whitestown, New Hartford, Kirkland, Marshall, Harris, Sangerfield and Bridgewater:						
Laborers.....	5.05	\$0.65	\$0.35			
Pipelayers, asphalt rakers, mortar mixers (hand or machine), mortar buggy operator (walk behind), power high lift, mason tender and power tool operator.....	5.20	.65	.35			
Blasters, form setters, motor buggy rider type.....	5.30	.65	.35			
Wagon drill operator, acetylene torch, chainsaw operator and wagon drill operator.....	5.55	.65	.35			

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-9902—86 F.R. 16758 Tulsa County, Okla., Modification No. 5						
CHANGE: Painters:						
Brush	5.95			\$0.20	\$0.01	
High work and stage	6.35			.20	.01	
Spray and sandblasting	6.00			.20	.01	
Hot or bituminous	7.25			.20	.01	
Sheetrock hand tools	5.95			.20	.01	
Sheetrock power tools	6.30			.20	.01	
Hazardous work	8.15			.20	.01	
Electricians	6.25	.20	1%+.10	.24	.04	
Cable splicers	6.45	.20	1%+.10	.24	.04	
WD No. AM-3,611—86 F.R. 16769, Tulsa County, Okla., Modification No. 1						
ADD: Electricians	6.25					
WD No. AM-3,612—86 F.R. 16770, Oklahoma County, Okla., Modification No. 1						
ADD: Electricians	6.80					
WD No. AM-1,848—86 F.R. 16260, Allegheny County, Pa., Modification No. 1						
CHANGE: Lathers	7.28	.30	\$0.10		.01	
Line construction:						
Lineman and cable splicer	9.02	.15	1%		.5%	
Groundman	5.41	.15	1%		.5%	
Line truck operator	6.31	.15	1%		.5%	
Painters, commercial:						
Brush	7.88	.275	\$0.20			
Paperhangers	7.93	.275	.20			
Spray	8.38	.275	.20			
Painters, Industrial:						
Brush	8.18	.275	.20			
Spray	8.68	.275	.20			
WD No. AM-1,850—86 F.R. 16260, Dauphin County, Pa., Modification No. 1						
CHANGE: Carpenters	6.05	.20	.25		\$0.02	
Cement masons	6.115	.20	.25			
Marble setters	7.345	.21	.175			
Painters:						
Brush	5.47	.16	.13			
Structural steel	5.92	.16	.13			
Spray	6.22	.16	.13			
Tank, bridges, stacks	6.72	.16	.13			
Tile setters	6.525	.21	.175			
WD No. AM-1,851—86 F.R. 16262, Cumberland County, Pa., Modification No. 1						
CHANGE: Carpenters	6.05	.20	.25		.02	
Cement masons	6.115	.20	.25			
Marble setters	7.345	.21	.175			
Painters:						
Brush	5.47	.16	.13			
Structural steel	5.92	.16	.13			
Spray	6.22	.16	.13			
Tank, bridges, stacks	6.72	.16	.13			
Tile setters	6.525	.21	.175			
PA-22-PEO-1-2						
Power equipment operators (Building and heavy construction):						
Wage Group I:						
Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above	8.68	4.6%	5.2%	a	.7%	
Wage Group II:						
Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoists with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum), gradalls, mucking machine in tunnel, all front end loaders 3½ cubic yards and over, tandem scrapers, pippin type backhoes, boat captains, batch plat operators (concrete), drills, self contained rotary drills, fork lifts, 20-foot lift and over, machines similar to the above	8.41	4.6%	5.2%	a	.7%	
Wage Group III:						
Conveyors, building hoists (single drum), scrapers and tournapulle, spreaders, high- or low-pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3½ cubic yards, mechanic-welders, motor patrols, drill helper—self contained rotary drills, core drill operator, forklift trucks under 20-foot lift, machines similar to the above	7.61	4.6%	5.2%	a	.7%	
Wage Group IV:						
Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to the above	6.90	4.6%	5.2%	a	.7%	
Wage Group V:						
Fireman, grease truck	6.47	4.6%	5.2%	a	.7%	
Wage Group VI:						
Oilers and deckhands (personnel boats), core drill helper	5.64	4.6%	5.2%	a	.7%	
Wage Group VII:						
All machines with booms (including jibs, masts, leads, etc.):						
100 feet and over	8.93	4.6%	5.2%	a	.7%	
150 feet and over	9.18	4.6%	5.2%	a	.7%	
200 feet and over	9.43	4.6%	5.2%	a	.7%	

Footnote:
a. Paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, provided the employee works the day before and after the holiday.

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-1,854-36 F.R. 16276, Franklin County, Pa., Modification No. 1</i>						
CHANGE:						
Asbestos workers	7.48	\$0.25	\$0.30			
Cement masons	6.115	.20	.25			
Painters:						
Townships of Metal, Letterkenny, Hamilton, Greene, South Hampton, Lurgan and Fannett, Chambersburg and Shippensburg, Orida and Tempo Boroughs:						
Brush	5.47	.16	.13			
Structural steel	5.92	.16	.13			
Spray	6.22	.16	.13			
Tank, bridge and stack	6.72	.16	.13			
Roofers:						
Roofers	5.05	.35	.15			
Precast slabs and sheeters	5.85	.35	.15			
Slate and tile	5.50	.35	.15			
<i>WD No. AM-1,857-36 FR 16291, Lehigh County, Pa., Modification No. 1</i>						
CHANGE:						
Elevator constructors	8.02	.195	.20	1 3/8%+a+b	\$0.005	
Elevator constructors' helpers	5.61	.195	.20	1 3/8%+a+b	.005	
Elevator constructors (prob.)	4.01					
Marble setters	6.19	.25	.35			
Terrazzo workers	6.44	.25	.35			
Tile setters	6.19	.25	.35			
PA-22-PEO-1-2-B:						
Power equipment operators (building and heavy construction):						
Wage Group I:						
Machines, doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above	8.68	4.6%	5.2%	a	.7%	
Wage Group II:						
Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoists with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum), gradalls, mucking machine in tunnel, all front end loaders 3 1/2 cubic yards and over, tandem scrapers, pippin type backhoes, boat captains, batch plat operators (concrete), drills, self contained rotary drills, fork lifts, 20-foot lift and over, machines similar to the above	8.41	4.6%	5.2%	a	.7%	
Wage Group III:						
Conveyors, building hoists (single drum), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3 1/2 cubic yards, mechanic-welders, motor patrols, drill helper—self contained rotary drills, core drill operator, forklift trucks under 20-foot lift, machines similar to the above	7.61	4.6%	5.2%	a	.7%	
Wage Group IV:						
Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to the above	6.00	4.6%	5.2%	a	.7%	
Wage Group V:						
Fireman, grease truck	6.47	4.6%	5.2%	a	.7%	
Wage Group VI:						
Oilers and deck hands (personnel boats), core drill helper	5.64	4.6%	5.2%	a	.7%	
Wage Group VII:						
All machines with booms (including bibs, masts, leads, etc.):						
100 feet and over	8.03	4.6%	5.2%	a	.7%	
150 feet and over	9.18	4.6%	5.2%	a	.7%	
200 feet and over	9.43	4.6%	5.2%	a	.7%	
Footnote:						
a. Paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, provided the employee works the day before and after the holiday.						
<i>WD No. AM-1,863-36 F.R. 16319, Washington County, Pa., Modification No. 1</i>						
CHANGE:						
Asbestos workers	8.72	\$0.25	\$0.60			
Lathers	7.28	.30	1.10		\$0.01	
Line construction:						
Linemen and cable splicers	9.02	.15	1%		.5%	
Line truck operator	6.31	.15	1%		.5%	
Groundman	5.41	.15	1%		.5%	
Plumbers (remainder of county)	8.26	.50	\$0.625	\$0.075		
Soft floor layers	7.50	4%	5%	d	1 1/2%	
Terrazzo workers (charlerio)	8.575	\$0.35	\$0.20			
Terrazzo workers' helpers (charlerio)	7.355	.35	.10			
Terrazzo workers (dry grinding)	7.855	.35	.10			
Tile setters (charlerio)	7.90	.15				
Tile setters' helpers (charlerio)	7.39	.35				
<i>WD No. AM-1,864-36 F.R. 16326, Westmoreland County, Pa., Modification No. 1</i>						
CHANGE:						
Asbestos workers	8.72	.25	.60			
Bricklayers and stonemasons:						
Remainder of county	8.85	.35	.10			
Lathers	7.28	.30	1.10		\$0.01	
Line construction:						
Linemen and cable splicers	9.02	.15	1%		.5%	
Groundman	5.41	.15	1%		.5%	
Line truck operators	6.31	.15	1%		.5%	
Plasterers	7.58	.37	\$0.50			
Plumbers and steamfitters	7.10	.45	1.00	\$1.00	.04	
Soft floor layers	7.50	4%	5%	d	1 1/2%	
Terrazzo workers	8.575	\$0.35	\$0.20			
Terrazzo workers (dry grinding)	7.355	.35	.10			
Terrazzo workers' helpers	7.355	.35	.10			
Tile setters	8.20	.15				
Tile setters' helpers	7.39	.35				

MODIFICATIONS—Continued

Classifications	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-499—86 F.R. 16476, Roane and Anderson Counties, Tenn., Modification No. 3</i>						
CHANGE:						
Building construction:						
Electricians (Oak Ridge in Anderson County and Roane County):						
Electricians	6.56	.20	1%		.5%	
Cable splicers	7.06	.20	1%		.5%	
Electricians (remaining area):						
Electricians	6.50	.20	1%		.5%	
Cable splicers	6.90	.20	1%		.5%	
Painters:						
Commercial	5.65			\$0.20	\$0.02	
Industrial	6.00			.20	.02	
Stacks, towers, bridges, and tanks over 50 feet high	6.35			.20	.02	
<i>WD No. AM-500—86 F.R. 16478, Davidson County, Tenn., Modification No. 4</i>						
CHANGE:						
Building construction:						
Painters:						
Brush and roller	5.30		.20		.05	
Spray	5.55		.20		.05	
Structural steel	5.55		.20		.05	
Sandblasting	6.05		.20		.05	
Roofers:						
Composition	5.50		.10		d	
Slate and tile	5.75		.10		d	
Tenn.—Zone-1-H:						
Highway construction:						
Bricklayers						
Bricklayers	4.91					
Carpenters						
Carpenters	4.07					
Cement masons						
Cement masons	3.97					
Ironworkers, reinforcing						
Ironworkers, reinforcing	3.98					
Ironworkers, structural						
Ironworkers, structural	4.38					
Painter or sand blaster						
Painter or sand blaster	3.84					
Laborers:						
Laborers, unskilled	2.50					
Air tool operator	2.72					
Mortar mixer, chain saw, pipelayer, conc. rubber	2.70					
Concrete saw operator, guard rail erector, sign erector	2.70					
Firemen	2.76					
Asphalt raker	2.87					
Concrete edger	2.89					
Powderman	3.25					
Form setter, steel road	2.94					
Nozzleman or gunman (gunite)	3.97					
Flagman	2.50					
Operating engineers:						
Dragline operator, shovel operator, crane operator, end loader 5 yards and over, pile driver operator, motor patrol finish, mechanic (class I)	4.07					
Backhoe operator, concrete paver operator	4.03					
End loader under 5 yards, mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver	3.65					
Bulldozer or push dozer operator, scraper operator, trenching machine, tractor (boom and hoist)	3.69					
Roller (high type)	3.64					
Spreader (self-propelled)	3.48					
Distributor (bituminous)	3.37					
Roller, other than finish, dozer or loader—stock pile only	3.24					
Tractor, crawler, utility	3.31					
Concrete mixer, less than 1 yard, earth drill	3.02					
Mulcher or seeder, scale operator, motor crane driver and oiler	3.00					
Tractor, farm	2.78					
Curb machine	2.77					
Ditch paver, mechanic helpers	2.74					
Pump operator, welder helper	2.71					
Track drill operator	2.84					
Other	2.77					
Truck drivers:						
2 axles	2.77					
3 axles	2.82					
4 axles	2.97					
5 axles or more or heavy off the road trucks or haulers	3.18					
Welders—Rate for craft.						

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-502-36 F.R. 16486, Knox County, Tenn., Modification No. 3</i>						
CHANGE:						
Building construction:						
Electricians and line construction:						
Electricians and linemen.....	\$6.50	.20	1%		.5%	
Cable splicers.....	6.90	.20	1%		.5%	
Painters:						
Commercial.....	5.65		\$0.20		\$0.08	
Industrial.....	6.00		.20		.08	
Tenn.—Zone-1-H:						
Highway construction:						
Bricklayers.....	4.91					
Carpenters.....	4.07					
Cement masons.....	3.97					
Ironworkers, reinforcing.....	3.98					
Ironworkers, structural.....	4.38					
Painter or sand blaster.....	3.84					
Laborers:						
Laborers, unskilled.....	2.50					
Air tool operator.....	2.72					
Mortar mixer, chain saw, pipelayer, conc. rubber.....	2.70					
Concrete saw operator, guard rail erector, sign erector.....	2.79					
Firemen.....	2.76					
Asphalt raker.....	2.87					
Concrete edger.....	2.89					
Powderman.....	3.25					
Form setter, steel road.....	2.94					
Nozzleman or gunman (gunite).....	3.97					
Flagman.....	2.50					
Operating engineers:						
Dragline operator, shovel operator, crane operator, end loader 5 yards and over, pile driver operator, motor patrol finish, mechanic (class I).....	4.07					
Backhoe operator, concrete paver operator.....	4.03					
End loader under 5 yards, mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver.....	3.65					
Bulldozer or push dozer operator, scraper operator, trenching machine, tractor (boom and hoist).....	3.69					
Roller (high type).....	3.54					
Spreader (self-propelled).....	3.48					
Distributor (bituminous).....	3.37					
Roller, other than finish, dozer or loader—stock pile only.....	3.24					
Tractor, crawler, utility.....	3.31					
Concrete mixer, less than 1 yard, earth drill.....	3.02					
Mulcher or seeder, scale operator, motor crane driver and oiler.....	3.00					
Tractor, farm.....	2.78					
Curb machine.....	2.77					
Ditch paver, mechanic helpers.....	2.74					
Pump operator, welder helper.....	2.71					
Track drill operator.....	2.84					
Oiler.....	2.77					
Truck drivers:						
2 axles.....	2.77					
3 axles.....	2.82					
4 axles.....	2.97					
5 axles or more or heavy off the road trucks or haulers.....	3.18					
Welders—Rate for craft.						
<i>WD No. AM-503-36 F.R. 16489, Shelby County, Tenn., Modification No. 3</i>						
Change:						
Building construction:						
Electricians and linemen.....						
Electricians and linemen.....	6.83	.30	1%		.5%	
Cable splicers.....	6.93	.30	1%		.5%	
Tenn.—Zone-1-H:						
Heavy and highway construction:						
Bricklayers.....	4.91					
Carpenters.....	4.07					
Cement masons.....	3.97					
Ironworkers, reinforcing.....	3.98					
Ironworkers, structural.....	4.38					
Painter or sand blaster.....	3.84					
Laborers:						
Laborers, unskilled.....	2.50					
Air tool operator.....	2.72					
Mortar mixer, chain saw, pipelayer, conc. rubber.....	2.70					
Concrete saw operator, guard rail erector, sign erector.....	2.79					
Firemen.....	2.76					
Asphalt raker.....	2.87					
Concrete edger.....	2.89					
Powderman.....	3.25					
Form setter, steel road.....	2.94					
Nozzleman or gunman (gunite).....	3.97					
Flagman.....	2.50					
Operating engineers:						
Dragline operator, shovel operator, crane operator, end loader 5 yards and over, pile driver operator, motor patrol finish, mechanic (class I).....	4.07					
Backhoe operator, concrete paver operator.....	4.03					
End loader under 5 yards, mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver.....	3.65					
Bulldozer or push dozer operator, scraper operator, trenching machine, tractor (boom and hoist).....	3.69					
Roller (high type).....	3.54					
Spreader (self-propelled).....	3.48					
Distributor (bituminous).....	3.37					
Roller, other than finish, dozer or loader—stock pile only.....	3.24					
Tractor, crawler, utility.....	3.31					
Concrete mixer, less than 1 yard, earth drill.....	3.02					
Mulcher or seeder, scale operator, motor crane driver and oiler.....	3.00					
Tractor, farm.....	2.78					
Curb machine.....	2.77					
Ditch paver, mechanic helpers.....	2.74					
Pump operator, welder helper.....	2.71					
Track drill operator.....	2.84					
Oiler.....	2.77					
Truck drivers:						
2 axles.....	2.77					
3 axles.....	2.82					
4 axles.....	2.97					
5 axles or more or heavy off the road trucks or haulers.....	3.18					

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-7,489—86 F.R. 21737, Harris County, Tex., Modification No. 3</i>						
CHANGE:						
Building construction:						
Painters:						
Brush	5.91	.275	\$0.30	\$0.20	\$0.03	
Roller, steam cleaning, pneumatic tools	5.91	.275	.30	.20	.03	
Spray	6.285	.275	.30	.20	.03	
Sandblasting-waterblasting	6.285	.275	.30	.20	.03	
Steeple jack work, hot materials	6.535	.275	.30	.20	.03	
Plumbers	6.60	.22	.42	.50	.05	
<i>WD No. AM-7,706—86 F.R. 22117, Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Castro, Swisher, and Childress Counties, Tex., Modification No. 2</i>						
OMIT:						
Building construction:						
Laborers:						
Mason tenders	3.00					
Mason tenders	3.15					
ADD:						
Building construction:						
Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Wheeler, and Gray Counties:						
Laborers:						
Laborers	3.15					
Mason tenders	3.30					
Potter, Carson, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Castro, Swisher, and Childress Counties:						
Laborers:						
Laborers	3.00					
Mason tenders	3.15					
<i>WD No. AM-7,716—86 F.R. 22123, Lubbock County, Tex., Modification No. 2</i>						
CHANGE:						
Building construction:						
Laborers:						
Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking buildings and all structures, and all construction laborers except those named below	3.60					
Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete and clay and all nonmetallic pipe); handling, laying and cleaning pumperete pipe	3.875					
Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers, and spreaders; pot men and kettlemen, well drillers, bell hole men, dumpers, and spotters	3.70					
Wagon drill	3.95					
Blasterers and powder makeup men	4.20					
<i>WD No. AM-1,843—86 F.R. 16241, Washington, D.C., Modification No. 9</i>						
Sewer and Water lines:						
CHANGE:						
Bricklayers						
Bricklayers	8.60	.37	.18			
Carpenters	7.44	.20	.24		.07	
Ironworkers, reinforcing	7.15	.35	.25		.03	
Piledrivermen	7.565	.20	.24		.07	
Laborers:						
Open Cut:						
Laborers, probationary (first 60 days)	4.33	.25	.25		.03	
Laborers, jackhammer, rammers, and spaders	5.41	.25	.25		.03	
Timbermen, sheetingman, shoringman, caulkers, pipelayers' helpers	5.56	.25	.25		.03	
Bottom man	5.46	.25	.25		.03	
Wagon drillers, air track drillers	5.76	.25	.25		.03	
Pipelayers	5.76	.25	.25		.03	
Rock drillers	5.51	.25	.25		.03	
Tunnel:						
Brakeman, bull gang, dumper, trackman, concrete man	6.04	.25	.25		.03	
Chuck tender, powderman in prime house, form setters and movers, nippers, cablemen, housemen, grout men, bell or signal man, top or bottom, vibrator operator, caulkers helpers	6.345	.25	.25		.03	
Miners, rodmen, rebar underground, concrete or gunite, nozzle man, powderman, timberman, wood, steel including liner plate or any other support material, motor men, caulkers, diamond drill, riggers, cement finishers underground, welders and burners, shield driver	6.995	.25	.25		.03	
Mucking machine operator	7.245	.25	.25		.03	
Compressed air:						
	Gauge pressure pounds	Work period minutes		DAILY RATE		
From 1 to 14		300	61.56	a	b	
From 14 to 22		360	64.76	a	b	
From 22 to 32		268	67.96	a	b	
From 32 to 38		240	71.16	a	b	
From 38 to 44		240	73.86	a	b	
Footnotes:						
a. Employer contributes \$2 per day to Health and Welfare.						
b. Employer contributes \$2 per day to Pension.						

[FR Doc.72-1136 Filed 1-27-72;8:45 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON ASBESTOS STANDARDS

Notice of Establishment and Meeting

Notice is hereby given that a standards advisory committee has been established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), and that it will meet at 10 a.m. on February 3, 1972, in Conference Room 107C, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C.

The advisory committee has been established to advise the Assistant Secretary of Labor for Occupational Safety and Health with regard to proposed rules concerning exposure of employees to asbestos dust which were published in the FEDERAL REGISTER on January 12, 1972 (37 F.R. 446). The meeting shall be open to the public.

Signed at Washington, D.C., this 26th day of January 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc. 72-1390 Filed 1-27-72; 9:49 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

JANUARY 25, 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 119641 Sub 101, Ringle Express, Inc., assigned February 22, 1972, MC 128648 Sub 6, Trans United, Inc., assigned February 23, 1972, MC 117574 Sub 208, Daily Express, Inc., MC 123048 Sub 197, MC 114211 Sub 157, assigned February 24, 1972, MC 114211 Sub 156, assigned February 25, 1972, MC 107103 Sub 6, assigned February 28, 1972, MC 135739, assigned March 2, 1972, will be held in Room 1992, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.
- MC 107456 Sub 16, Harry L. Young & Sons, Inc., application dismissed.
- MC 97068 Sub 14, H. S. Anderson Trucking Co., MC 115603 Sub 11, Turner Bros. Trucking Co., Inc., now being assigned March 13, 1972, in Room 8212, Federal Building, 515 Rusk Street, Houston, TX.
- FD 26969 IML Freight, Inc.—Purchase (Portion)—Michigan Express, Inc., now being assigned February 14, 1972, at the La Salle Hotel, 10 North La Salle Street, Chicago, IL.

- MC 123639 Sub 144, J. B. Montgomery, Inc., assigned for hearing March 2, 1972, in Room 812, Federal Office Building, 106 South 15th Street, Omaha, NE.
- MC 59934 Sub 8, Main Trucking & Rigging Co., Inc., application dismissed.
- MC 13002 Sub 8 and 9, Fremont Smith Truck Line, Inc., MC 13087 Sub 35, Stockberger Transfer & Storage, Inc., MC 30844 Sub 365, Kroblin Refrigerated Express, MC 41404 Sub 96, Argo-Collier Truck Lines Corp., MC 59367 Sub 76, Decker Truck Line, Inc., MC 61592 Sub 235, Jenkins Truck Line, Inc., MC 82492 Sub 57, Michigan & Nebraska Transit Co., Inc., MC 83217 Sub 56, Dakota Express, Inc., MC 99780 Subs 16 and 17, Chipper Cartage Co., Inc., MC 105566 Subs 56 and 57, Sam Tanksley Trucking, Inc., MC 108053 Sub 104, Little Audrey's Transportation Co., Inc., MC 108449 Sub 328, Indianhead Truck Line, Inc., MC 110098 Sub 113, Zero Refrigerated Lines, MC 110563 Subs 68 and 69, Coldway Food Express, Inc., MC 113775 Subs 49 and 52, Pirkle Refrigerated Freight Lines, Inc., MC 112822 Sub 192, Bray Lines, Inc., MC 113362 Subs 208 and 217, Ellsworth Freight Lines, Inc., MC 113678 Sub 424, Curtis, Inc., MC 114273 Subs 84 and 93, Cedar Rapids Steel Transportation, Inc., MC 114457 Sub 112, Dart Transit Co., MC 114632 Sub 47, Apple Lines, Inc., MC 115331 Sub 310, Truck Transport, Inc., MC 117119 Sub 435, Willis Shaw Frozen Express, Inc., MC 117815 Sub 173, Pulley Freight Lines, Inc., MC 118180 Sub 11, Govan Express, Inc., MC 118263 Sub 48, Coldway Carriers, Inc., MC 119619 Sub 54, Distributors Service Co., MC 119741 Subs 38 and 39, Green Field Transport Co., Inc., MC 119767 Sub 267, Beaver Transport Co., MC 124211 Sub 190, Hilt Truck Line, Inc., MC 126473 Sub 17, Harold Dickey Transport, Inc., MC 127042 Sub 85, Hagen, Inc., MC 128497 Sub 10, Jack Link Truck Line, Inc., MC 128750 Sub 5, Pitt Truck, Inc., MC 129387 Sub 9, Bill Payne, doing business as Bill Payne Trucking Co., MC 133655 Sub 49, Trans-National Truck, Inc., MC 133775 Sub 9, Reefer Transit Line, Inc., MC 134777 Sub 11, Sooner Express, Inc., and MC 135100 Subs 4 and 5, Signal Transport, Inc., assigned February 28, 1972, will be in Room 286, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.
- MC 110563 Sub 58, Coldway Food Express, Inc., now assigned January 26, 1972, at Washington, D.C., postponed to February 29, 1972, at the Office of the Interstate Commerce Commission, Washington, D.C.
- MC 129708 Sub 1, McRay Truck Line, Inc., assigned January 31, 1972, at Louisville, Ky., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-1308 Filed 1-27-72; 8:51 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 25, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG- AND SHORT-HAUL

FSA No. 42341—Superphosphate from Florida producing points. Filed by M. B. Hart, Jr., agent (No. A6295), for inter-

ested rail carriers. Rates on superphosphate (including diammonium phosphate and monoammonium phosphate), in carloads, as described in the application, from specified Florida producing points, to East St. Louis, Ill., and St. Louis, Mo. Grounds for relief—Rail-barge-truck competition.

Tariff—Supplement 36 to Southern Freight Association, agent, tariff ICC S-948. Rates are published to become effective on March 2, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-1307 Filed 1-27-72; 8:51 am]

[Notice 13]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 24, 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 106943 (Sub-No. 106 TA), filed January 11, 1972. Applicant: EASTERN EXPRESS, INC., 1450 Wabash Avenue, Terre Haute, IN 47801. Applicant's representative: John E. Lesow, 3737 North Meridian Street, Indianapolis, IN 46208. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except classes A and B explosives, livestock, grain, petroleum products, in bulk, household goods as defined by the Commission, and commodities requiring special equipment), serving the plantsite of PPG Industries, Inc., at or near Mount Holly Springs, Pa., as an off-route point in connection with carrier's authorized regular-route operations to and from Harrisburg, Pa., for 180 days. NOTE: Applicant states tacking possibilities in MC 106943 would be performed at any interstate point on applicant's authority where concurrences are

in effect. Supporting shipper: PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 107012 (Sub-No. 138 TA), filed January 14, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Karlten Holle (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New pianos, uncrated and new piano benches*, when moving with shipments of new pianos, from the plant and warehouse facilities of Grand Piano Co., Inc., in or near Morganton, N.C., to points in the United States (except Alaska and Hawaii), *damaged, rejected, and return shipments on return*, for 180 days. Supporting shipper: Grand Piano Co., Inc., Post Office Box 842, Morganton, NC 28655 (Dennis K. Kincaid, President). Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 108207 (Sub-No. 339 TA), filed January 11, 1972. Applicant: FROZEN FOOD EXPRESS, Post Office Box 5888, 318 Cadiz (75207), Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Houston, Tex., to points in New Mexico, Arizona, and California, for 180 days. Supporting shipper: Hallson Icelandic Import Co., 5728 Green Ash, Houston, TX 77036. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 112822 (Sub-No. 221 TA), filed January 14, 1972. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, OK 74023. Applicant's representative: Joe Ballard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer materials, dry, in bulk, in bags*, from the Port of Catoosa, Okla., to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, for 150 days. Supporting shippers: Willchemco, J. J. Stefanec, Traffic Manager, National Bank of Tulsa Building, Tulsa, Okla. 74103. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 113908 (Sub-No. 219 TA), filed January 14, 1972. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Post Office Box 3180, Springfield, MO 65804. Applicant's

representative: Le Roy Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice and fruit juice concentrates*, in bulk, in tank vehicles, from Mission, Tex., to Cicero, Ill., for 180 days. Supporting shipper: Wagner Industries, Division of A. E. Staley Manufacturing Co., 2011 Swift Drive, Oak Brook, IL 60521. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 124170 (Sub-No. 28 TA), filed January 13, 1972. Applicant: FROSTWAYS, INC., 3900 Orleans, Detroit, MI 48207, 2450 Scotten, Detroit, MI 48209. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas* in vehicles equipped with mechanical refrigeration, from the Port of Charleston, S.C., to points in Ohio, Michigan, Illinois, Indiana, and points in Pennsylvania west of U.S. Highway 15, for 180 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor Melvin F. Kirsch, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, MI 48226.

No. MC 124813 (Sub-No. 89 TA), filed January 14, 1972. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay*, in bulk, from the plantsite of American Colloid Co. near Belle Fourche, S. Dak., to points in Iowa, Minnesota, Nebraska, and Wisconsin, and St. Joseph, Mo., for 180 days. Supporting shipper: American Colloid Co., 5100 Suffield Court, Skokie, IL 60076. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 135578 (Sub-No. 2 TA), filed January 11, 1972. Applicant: TODD & BINDNER, INC., 3721 East 10th Street, Indianapolis, IN 46201. Applicant's representative: John E. Lesow, 3737 North Meridian Street, Indianapolis, IN 46208. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers*, from the plantsite of Glass Containers Corp., at Indianapolis, Ind., to the plantsite of Coca Cola Bottling Co., at Detroit, Mich., for 180 days. Supporting shipper: Glass Containers Corp., 114 Penn Avenue, Knox, PA 16232. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South

Pennsylvania Street, Indianapolis, IN 46204.

No. MC 136254 TA (Correction), filed December 17, 1971, published FEDERAL REGISTER January 12, 1972, corrected and republished in part as corrected this issue. Applicant: HOWARD & GENEVA SMITH, doing business as ARIZONA MOBILE HOME MOVERS, 3140 North Oracle Road, Tucson, AZ 85705. NOTE: The purpose of this partial republication to show applicant correct name as Arizona Mobile Home Movers, in lieu of Mobile Home Movers, and to show the correct zip code of the supporting shipper as 79701 in lieu of 97701. The rest of the application remains the same.

No. MC 136318 TA, filed January 11, 1972. Applicant: COYOTE TRUNK LINE, INC., 4295 East Mexico Avenue, No. 301, Denver, CO 80222; 1170 Dahlia Street, Denver, CO 80220. Applicant's representative: Earl H. Scudder, Jr., Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new store fixtures, new laboratory equipment, new lamps and accessories, carpets, and padding*, from points in Buncombe, Burke, Catawba, Cleveland, Guilford, and McDowell Counties, N.C., to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming. Restriction: Restricted to the performance of service under a continuing contract or contracts with U.S. Plywood-Champion Papers, Inc., and its subsidiaries, Drexel Enterprises Division, for 180 days. Supporting shipper: Drexel Enterprises Division, Drexel, N.C. 28619. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Sub-No. 171 TA), filed January 11, 1972. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113, Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: J. E. Adkins (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between Glenville and Millstone, W. Va., serving all intermediate points; from Glenville, W. Va., over West Virginia Highway 5 to Grantsville, W. Va., thence over West Virginia Highway 16 to Millstone, W. Va., and return over the same route, for 180 days. NOTE: Applicant states joinder of the proposed authority with the authority now held under Docket MC 1515 and subs would be, specifically, at Glenville and Millstone, W. Va., authority in the area in which the foregoing joinder of routes is proposed, is authorized in Docket MC 1501 Sub 172 (renumbered MC 1515 sub 8 but not yet reissued). Further, it is also intended that traffic originating at or

terminating on the proposed route described in Appendix A herein will be interlined with other carriers at points where applicant presently interlines traffic with such other carriers. Supported by: There are approximately 13 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 G. J. Baccei, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-1306 Filed 1-27-72; 8:51 am]

[Notice 7]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 25, 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-73305. By order of January 24, 1972, the Motor Carrier Board authorized the transfer to Wallace Wis-kow, doing business as O'Hara Fuel and Transfer Co., 309 East Third Street, Thief River Falls, MN, of certificate No. MC-88619 issued July 7, 1953, to Gerald O'Hara, and Clair O'Hara, doing business as O'Hara Fuel and Transfer Co., 309 East Third Street, Thief River Falls, MN, authorizing the transportation of: Household goods as defined by the Commission, between points in Pennington, Marshall, Red Lake, and Roseau Counties, Minn., on the one hand, and, on the other, points in North Dakota and South Dakota.

No. MC-73364. By order of January 24, 1972, the Motor Carrier Board approved

the transfer to Rabon Transfer, Inc., Chadbourn, N.C., of certificates Nos. MC-112205 (Sub-No. 1) and MC-112205 (Sub-No. 5), issued September 25, 1958 and December 11, 1963, to Elsworth Lamotte Rabon, doing business as Rabon Transfer, Chadbourn, N.C., authorizing the transportation of: Finished lumber, plywood, and veneer, from Whiteville, and Hallsboro, N.C., and points within 3 miles of Whiteville and Hallsboro, to points in New York, New Jersey, Pennsylvania, and Maryland; roofing, roofing materials, asbestos siding, and insulation materials, from Bound Brook, Manville, and Newark, N.J., Philadelphia, Pa., and Baltimore, Md., to Whiteville, N.C.; fertilizer, from Wilmington, N.C., and points within 3 miles of Wilmington, to points in South Carolina within 20 miles of Tabor City, N.C.; household goods as defined by the Commission, and general commodities, with the usual exceptions, between points within 50 miles of Fairmont, N.C.; roofing and roofing materials, from Barber, N.J., to points in Columbus County, N.C.; household goods, between Whiteville, N.C., and points in North Carolina within 50 miles of Whiteville, on the one hand, and, on the other, points in Florida, Georgia, South Carolina, Maryland, Pennsylvania, and the District of Columbia; lumber, from Whiteville, Tabor City, Evergreen, and Hallsboro, N.C., to points in New York; from Whiteville and Hallsboro, N.C., to points in West Virginia; lumber (except plywood and veneer), from Whiteville, Hallsboro, and Grifton, N.C., to points in Tennessee, Kentucky, Ohio, Indiana, Connecticut, and Illinois; from Whiteville, N.C., to points in Florida; and forest products, lumber and veneer, from points in Brunswick and Columbus Counties, N.C., to points in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, and the District of Columbia. Edward L. Williamson, 136 Washington Street, Whiteville, NC, attorney for applicants.

No. MC-FC-73396. By order of January 20, 1972, the Motor Carrier Board approved the transfer to Jenkins Van & Storage, Inc., 1535 Lincoln Boulevard, Santa Monica, CA, of certificate No. MC 81723, issued June 10, 1953, to Frank M. Jenkins, Leroy F. Jenkins, and James Jenkins, Jr. (above address), authorizing the transportation of: Household goods, as defined by the Commission between Santa Monica, and Los Angeles, Calif.

No. MC-FC-73417. By order of January 24, 1972, the Motor Carrier Board approved the transfer to Western Motor

Freight, Inc., Oklahoma City, Okla., of certificate of registration No. MC-121673, issued May 28, 1971, to James Swindle, doing business as Western Motor Freight, Oklahoma City, Okla., evidencing a right to engage in transportation in interstate commerce corresponding in scope to Motor Carrier certificate No. MC-27289 Sub 1, granted by order dated January 19, 1971, issued by the Corporation Commission of Oklahoma. Rufus H. Lawson, 2400 Northwest 23d Street, Oklahoma City, OK 73107, attorney for applicants.

No. MC-FC-73429. By order of January 21, 1972, the Motor Carrier Board approved the transfer to Pack Transport, Inc., Salt Lake City, Utah, of certificate No. MC-10480, issued January 27, 1966, to Charles Rudolph Johnson, Ann M. Christiansen, Administratrix, Salt Lake City, Utah, authorizing the transportation of: Household goods, between specified counties in Utah and Idaho; building materials, coke, lime, and contractors' equipment and machinery, between points in Cache County, Utah, and specified counties in Idaho; and general commodities, with the usual exceptions, between points in Cache County, Utah. Max Eliason, Post Office Box 2602, Salt Lake City, Utah 84110, attorney for applicants.

No. MC-FC-73430. By order of January 21, 1972, the Motor Carrier Board approved the transfer to Mishak Truck Line, Inc., Clear Lake, Iowa, of permit No. MC-127410 (Sub-No. 1), issued December 19, 1966, to Frank Mishak, Clear Lake, Iowa, authorizing the transportation of prestressed concrete beams, from Clear Lake, Iowa, to Ortonville, Minn., and points in that part of Minnesota on and south of U.S. Highway 12, restricted to transportation for the account of A & M Prestress, Inc., and of certificate No. MC-27500, issued October 11, 1960, in the name of Milton G. Stites, and subsequently transferred to Frank Mishak, pursuant to MC-FC-73129, consummated January 5, 1972, authorizing the transportation of livestock, tankage, feed, seeds, grain, flour, salt, oil, building materials, fencing materials, agricultural implements and parts, heavy machinery, hardware, farm machinery, fertilizer, binder twine, wire and wire products, corrugated roofing, and coal, from, to, or between specified points in Iowa, South Dakota, Minnesota, and Illinois. Dual operations authorized. Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-1306 Filed 1-27-72; 8:51 am]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

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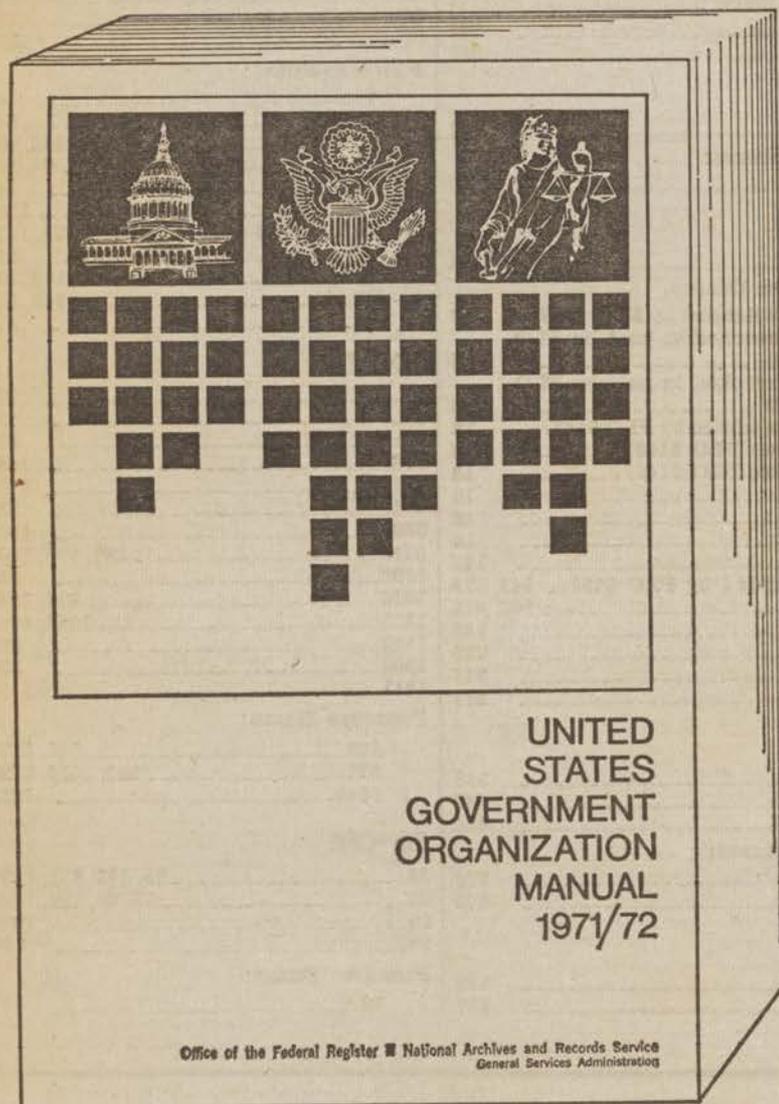
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