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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month.

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

Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

U.S. Standards for Grades of Potatoes [1]

On page 24820 of the FEDERAL REGISTER of December 23, 1971, there was published a notice of proposed rule making to amend these grade standards by deleting the size designation "Bakers" from Table I in § 51.1545. These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

Statement of considerations leading to the amendment of the grade standards. The revised U.S. Standards for Grades of Potatoes, effective September 1, 1971, provide, in Table I § 51.1545, optional size designations. The largest of these, "Bakers," has a minimum size requirement of 3 inches in diameter or 10 ounces in weight. No maximum size is specified. No comments concerning this size designation were received following publication of the proposed standards in October 1969. However, since issuance of the revised standards potato shippers registered their disapproval of the use of the term "Bakers" with such a large minimum size. It was pointed out that many shippers customarily pack potatoes smaller than 10 ounces in weight, using the term "Bakers" in some manner in labeling. The Idaho Grower Shippers Association formally requested that the size designation "Bakers" be deleted from Table I.

Interested persons were given until January 15, 1972 to submit written data, views, or arguments regarding the proposal to make the requested change. No comments have been received.

This amendment will eliminate the present conflict with industry usage of the term "Bakers" on containers. There will be no adverse effect on growers, shippers, receivers, or consumers. Sizes larger than the "Large" designation may be specified in terms of maximum, or minimum and maximum, diameters or weights. The proposed amended Table I of § 51.1545 of the grade standards is hereby adopted without change and is set forth below.

It is hereby found that good cause exists for not postponing the effective date of this amendment beyond the date of publication hereof in the FEDERAL REGISTER, in that: (1) The 1972 packing season for potatoes is well under way and it is in the interest of the public and the industry that this amendment be placed in effect at the earliest possible date; and (2) no special preparation is required for compliance with this amendment on the part of members of the potato industry or of others.

Accordingly this amendment shall become effective upon publication in the FEDERAL REGISTER (2–5–72).

Dated: February 1, 1972.

G. R. GRANGE,
Acting Administrator.

§ 51.1545 Size.

* * * * *

TABLE I

Size designation	Minimum diameter[1] or weight		Maximum diameter[1] or weight	
	Inches	*Ounces*	*Inches*	*Ounces*
Size A [2]	1⅞	(3)	(3)	(3)
Size B	1½	(3)	2¼	(3)
Small	1¾	(3)	2½	6
Medium	2¼	5	3¼	10
Large	3	10	4¼	16

[1] Diameter means the greatest dimension at right angles to the longitudinal axis, without regard to the position of the stem end.

[2] In addition to the minimum size specified, a lot of potatoes designated as Size A shall contain at least 40 percent of potatoes which are 2½ inches in diameter or larger or 6 ounces in weight or larger.

[3] No requirement.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624)

[FR Doc.72–1733 Filed 2–4–72;8:48 am]

PART 53—LIVESTOCK, MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart A—Regulations

FEES FOR GRADING SERVICE

Pursuant to the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the provisions of 7 CFR 53.29(a) prescribing fees in connection with the performance of Federal meat grading services are hereby amended by changing the phrases "$11.60 per hour," "$13.80 per hour," and "$23.20 per hour" to "$12.40 per hour," "$14.60 per hour," and "$24.80 per hour" respectively.

The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be to the cost of the services, such as Federal meat grading services, rendered under its provisions. Public Law 92–210 and Executive Order 11637 increased salaries paid to Federal employees. Therefore, it has been determined that, in order to cover the increased cost of Federal meat grading services resulting from increases in salaries paid to Federal employees and expected increases in other costs, including the holiday billing procedures adopted October 2, 1971, the hourly fee must be increased as provided for herein.

The need for the increase and the amount thereby are dependent upon facts within the knowledge of the Consumer and Marketing Service. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and other public procedures with respect to this amendment are impractical and unnecessary and good cause is found to make the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment shall become effective February 13, 1972, with respect to all Federal meat grading services rendered on and after that date, including service under commitment agreement whether heretofore or hereafter made.

(Secs. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624)

Done at Washington, D.C., this 1st day of February 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72–1761 Filed 2–4–72;8:50 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1972–73 and Subsequent Marketing Years

On pages 23221 and 23222 of the FEDERAL REGISTER of December 7, 1971, there was published a notice of determinations to be made with respect to regulations pertaining to farm acreage allotments

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.

and farm marketing quotas for Fire-cured, Dark air-cured, Virginia sun-cured, Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco for the 1972–73 and subsequent marketing years. The notice of determinations stated that it was proposed to reissue the regulations including amendments and corrections thereto, currently in effect for such kinds of tobacco to become applicable for the 1972–73 and subsequent marketing years. Other significant changes were also specified in the notice of determinations.

Interested persons were given 30 days after publication of this notice in which to submit written data, views, or recommendations with respect to the proposed regulations. No data, views, or recommendations were submitted pursuant to such notice.

The proposed regulations are adopted with the following significant changes:

1. Sections 724.69 and 724.70 require the use of Form ASCS–375, as a record of transfer of acreage allotment and marketing quota. The revisions also require, in general, that signatures of either the owner or operator of the transferring farm, as well as the owner or operator of the receiving farm, be witnessed on Form ASCS–375 by a representative of the county committee. This change is necessary to insure proper handling of transfers of allotments and marketing quotas.

2. Section 724.70(b) authorizes the State committee to approve late-filed transfers of allotments provided it is determined that such late filing resulted from misunderstanding of filing requirements after oral discussion between the applicant and a representative of the county committee.

3. The provisions in §§ 724.69 and 724.70 relative to the cancellation or revision of transfers of allotments are rewritten for clarity.

4. The dates in § 724.72 for surrendering cigar tobacco allotment acreage and requesting reallocation of surrendered acreage are changed to March 5.

5. Sections 724.96(g) and 724.97(h) provide that the actual weights of tobacco on hand by a warehouseman and dealer at the end of the season so obtained through inspection and weighing by ASCS representatives shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if any penalty is due.

6. Other editorial changes of a technical nature are made as applicable.

Since farmers are now making preparation for the 1972 crop, it is essential that these regulations be made effective at the earliest possible date. Accordingly, this document shall be effective upon the date of publication in the FEDERAL REGISTER.

The regulations are as follows:

GENERAL

AUTHORITY: The provisions of this subpart issued under secs. 301, 313, 314, 316, 318, 363, 372–375, 377, 378, 52 Stat. 38 as amended, 47 as amended, 48 as amended, 75 Stat. 469, as amended, 80 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended; 7 U.S.C. 1301, 1313, 1314, 1314b, 1314d, 1363, 1372–1375, 1377, 1378.

GENERAL

§ 724.50 Basis and purpose.

The regulations contained in §§ 724.50 through 724.110 are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) and are applicable to Fire-cured, Dark air-cured, Virginia sun-cured, Cigar-binder (types 51 and 52), Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco for the 1972–73 and subsequent marketing years. They govern the establishment of farm acreage allotments and marketing quotas, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties, and the keeping of records and making of reports incident thereto. The applicability of the regulations for any marketing year subsequent to 1972–73 is contingent upon the proclamation of a national marketing quota for such year pursuant to section 312(a) of the Act.

§ 724.51 Definitions.

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless

the context or subject matter otherwise requires. References contained herein to other parts of this chapter or title shall be construed as references to such parts and any amendments now in effect or later issued. The definitions in Parts 718 and 719 of this chapter are hereby incorporated in these regulations unless the context or subject matter of the provisions of these regulations otherwise require.

(a) *Act.* The Agricultural Adjustment Act of 1938, as amended.

(b) *Auction sale.* A marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, including sale of all lots or baskets of tobacco at public auction in sequence at a given time.

(c) *Base period.* The 5 calendar years immediately preceding the year for which farm acreage allotments are currently being established.

(d) *Buyer's corrections account.* The warehouse account of tobacco purchased at auction by the buyer but not delivered to the buyer, or any tobacco returned by the buyer because of rejection by the buyer, lost ticket, or any other valid reason, which is turned back to the warehouseman and supported by an adjustment invoice from the buyer. This account shall include the pounds deducted resulting from returned baskets, short baskets, and short weights, and pounds added resulting from long baskets and long weights, which buyers debit or credit to the warehouseman and support with adjustment invoices.

(e) *Carryover tobacco.* Tobacco produced prior to the current calendar year which has not been marketed or otherwise disposed of prior to the beginning of the marketing year for the current crop.

(f) *Current year.* The calendar year for which acreage allotments are being established, or tobacco history acreage or normal yields are being determined, or the farm is being considered under the provisions of the marketing quota program.

(g) *Dealer or buyer.* A person who engages to any extent in the business of acquiring or selling tobacco in the form normally marketed by producers.

(h) *Director.* The Director, or Acting Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(i) *Excess tobacco.* For a farm for the current year that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm times the number of acres harvested in excess of the farm acreage allotment, plus any carryover excess tobacco.

(j) *Floor sweepings.* The actual quantity of scraps of tobacco or leaves other than bundles of tobacco, which accumulate on the warehouse floor in the regular course of business which are sold in the untied form in which acquired and sales and resales of such tobacco: *Provided,* That floor sweepings exceeding the pounds determined by multiplying the total first sales of tobacco at auction for the season for the warehouse by the percentage below shall be deemed to be leaf account tobacco:

Kind of tobacco	*Percentage*
Fire-cured, Dark air-cured, and Virginia sun-cured.	0.02 (two-hundredths of 1 percent).

Floor sweeping tobacco shall be kept separate from any other tobacco when sold.

(k) *Leaf account tobacco.* All tobacco purchased or otherwise acquired by or for the account of a warehouse and shall include, but not be limited to, tobacco from buyers corrections account, and sales and resales of such tobacco, scrap tobacco obtained through grading tobacco for farmers or furnishing farmers curing or stripping space, floor sweepings purchased from another warehouseman or dealer, and floor sweepings deemed to be leaf account tobacco under paragraph (j) of this section.

(l) *Market.* The disposition of tobacco in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift between living persons. "Marketing" and "Marketed" shall have corresponding meanings to the term "market".

(m) *Marketing quota for a farm.* The actual production of tobacco on the farm acreage allotment, which shall be the average yield per acre of the entire acreage of tobacco harvested on the farm times the farm acreage allotment.

(n) *Marketing year.* The period beginning October 1 of the year in which the tobacco is produced and ending September 30 of the following year.

(o) *Marketing recorder.* Any employee of the U.S. Department of Agriculture, or any employee of an Agricultural Stabilization and Conservation Service (ASCS) county office, whose duties involved the preparation and handling of records and reports pertaining to the identification of marketing of tobacco.

(p) *New farm.* A farm for which a tobacco allotment is established in the current year, and for which there is no tobacco history acreage in the base period (except an allotment established as a result of a transfer by sale or by owner for Fire-cured, Dark air-cured, or by Virginia sun-cured under § 724.70, or an allotment established as the result of acreage reallocated for Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco under § 724.72). If, in accordance with applicable law and regulations, no tobacco acreage allotment was determined for the farm for any year of the base period, any production of tobacco on such farm during the base period shall not be considered in determining whether the farm is a new farm. The term "tobacco history acreage" as used in this paragraph is defined in § 724.57.

(q) *Nonauction sale.* Any first marketing of tobacco other than by a sale at auction.

(r) *Old farm.* A farm on which there is tobacco history acreage in 1 or more years of the base period.

(s) *Pound.* The amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by a producer, would equal 1 pound standard weight.

(t) *Resale.* The disposition by sale, barter, exchange, or gift between living persons, of tobacco which has been marketed previously.

(u) (1) *Sale.* The first marketing of cigar-filler and cigar-binder farm tobacco on which the gross amount of the sale price therefor has been or could be readily determined.

(2) *Sale date.* The date on which the gross amount of the sale price of a first marketing of tobacco is determined.

(v) *Sale day.* The period at the end of which the warehouseman bills to buyers the tobacco purchased by them during such period.

(w) *Scrap tobacco.* The residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(x) *Suspended sale.* Any first marketing of tobacco at a warehouse sale for which the sale is not identified by the end of the sale day by the marketing card (including sale memo, where applicable) issued for the farm where the tobacco was produced.

(y) *Tobacco.* Fire-cured tobacco (types 21, 22, 23, and 24); Dark air-cured tobacco (types 35 and 36); Virginia sun-cured tobacco (type 37); Cigar-binder tobacco (types 51 and 52); and Cigar-filler and Binder tobacco (types 42, 43, 44, 53, 54, and 55) as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture. As used herein "cigar tobacco" means the latter two kinds of this paragraph.

(z) *Tobacco available for marketing.* All tobacco produced on a farm, including carryover tobacco, which has not been marketed or disposed of so that it cannot be marketed.

(aa) *Trucker.* A person who trucks or hauls tobacco for producers, or any other persons.

(bb) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

§ 724.52 Extent of determinations, computations, and rule for rounding fractions.

(a) *General.* If rounding is prescribed herein, computations shall be carried to two decimal places beyond the number of decimal places required, and digits of 50 or less beyond the required number of decimal places shall be dropped; if 51 or more, the last required decimal place shall be increased by one.

(b) *Allotments.* Farm acreage allotments shall be determined in hundredths and any allotment of less than 0.01 acre shall be increased to 0.01 acre. For example, 2.5536 equals 2.55; 2.550 equals 2.55; 2.551 equals 2.56; 2.5582 equals 2.56; and 0.0001 equals 0.01.

(c) *Percent excess.* The percentage of excess tobacco available for marketing

from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths percent and calculations thereof rounded to the nearest tenth percent. For example, 6.732 percent would be 6.7 percent; 6.750 percent would be 6.7 percent; 6.751 percent would be 6.8 percent; and 6.782 percent would be 6.8 percent.

(d) *Converted rate of penalty.* The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent and calculations thereof rounded to the nearest hundredth of a cent. For example, expressions in tenths calculated at 6.732 cents would be 6.7 cents; 6.750 cents would be 6.7 cents; 6.751 cents would be 6.8 cents; and 6.782 cents would be 6.8 cents and expressions in hundredths calculated at 0.0536 cent would be 0.05 cent; 0.0550 cent would be 0.05 cent; 0.0551 cent would be 0.06 cent; and 0.0582 cent would be 0.06 cent.

(e) *Amount of penalty.* The amount of penalty on any lot of tobacco marketed shall be expressed in dollars and cents and calculations thereof rounded to the nearest cent. For example, $10.5536 would be $10.55; $10.550 would be $10.55; $10.551 would be $10.56 and $10.5582 would be $10.56.

§ 724.53 Supervisory authority of State ASC committee.

The State committee may take any action required by the regulations in this part which has not been taken by a county committee. The State committee may also (a) correct, or require a county committee to correct, any action taken by a county committee which is not in accordance with the regulations in this part, or (b) require a county committee to withhold taking any action which is not in accordance with the regulations in this part.

§ 724.54 Instructions and forms.

The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary, for carrying out the regulations in this part. The forms and instructions shall be approved by and the instructions shall be issued by the Deputy Administrator.

§ 724.55 Farms divided or combined.

The provisions of Part 719 of this chapter shall apply to allotments and history acreages for the base period for farms that are reconstituted by division or combination.

ACREAGE ALLOTMENTS, HISTORY ACREAGE AND NORMAL YIELDS

§ 724.57 Determination of preliminary acreage allotments and tobacco history acreage for old farms.

(a) *Determination of preliminary acreage allotments*—(1) *Farms with history acreage in base period.* A preliminary farm acreage allotment shall be determined for each farm which has tobacco history acreage, as defined and explained in paragraph (b) of this section, in the base period, except that no preliminary farm acreage allotment shall be established in the current year under any one of the following conditions: (i) The only tobacco history acreage credited to the farm during the entire base period is history acreage restored because the allotment was reduced for violation of the regulations in this part; (ii) A new farm allotment was established in any prior year but was cancelled for such year and the farm had no other tobacco history acreage during the base period; (iii) an allotment was pooled under Part 719 of this chapter but was cancelled; or (iv) the county committee determines that the farm has been retired from agricultural production and the farm was not or could not have been acquired under right of eminent domain by the acquiring person or agency. This subdivision shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production if the allotment for the retired land was not allocated to other land contained in the farm of which the retired land was a part, or for a farm for which an acreage allotment may be determined under the provisions of § 724.67(a).

(2) *Preliminary farm acreage allotments.* The preliminary farm acreage allotment for the current year for a farm which qualifies for a preliminary farm acreage allotment under subparagraph (1) of this paragraph shall be the same as the allotment (prior to lease and transfer and prior to reduction for violation) for the preceding year: *Provided,* That if the tobacco history acreage for the farm in neither of the two immediately preceding years was as much as 75 percent of the allotment (after any violation), the preliminary acreage allotment shall be the larger of (not to exceed the allotment for the preceding year): (i) The largest tobacco history acreage in either of the 2 preceding years, or (ii) the average tobacco history acreage for the base period.

(b) *Determination of tobacco history acreage.* Tobacco history acreage shall be determined for each farm for which a tobacco farm acreage allotment has been established for the current year.

(1) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as tobacco history acreage for any year if: (i) (*a*) In such year or either of the two immediately preceding years the sum of (*1*) the final tobacco acreage as determined under Part 718 of this chapter, (2) the acreage leased and transferred from the farm, and (3) the acreage regarded as planted under the conservation practices determined pursuant to Part 719 of this chapter, was as much as 75 percent of the allotment after any reduction for violation. (If an erroneous notice of allotment was applicable, the smaller of the correct or the erroneous notice shall be used to determine whether 75 percent planting provision has been met); or (*b*) in such year or either of the 2 immediately preceding years the farm acreage allotment was in the eminent domain pool; or (ii) the farm consists of federally owned land for which a restrictive lease is in effect prohibiting the production of tobacco. (Federally owned land as used in this paragraph means land owned by the Federal Government or any department, bureau, or agency thereof, or by any corporation, all of the stock of which is owned by the Federal Government.)

(2) *Computed history acreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under subparagraph (1) of this paragraph, the tobacco history acreage shall be the sum of the acreages (not to exceed the farm acreage allotment) as follows:

(i) Final tobacco acreage.

(ii) Acreage regarded as planted under the conservation programs and conservation practices determined pursuant to Part 719 of this chapter.

(iii) Acreage leased and transferred from the farm.

(iv) Acreage reduced for violation of the regulations in this part.

(3) *Adjustment of tobacco history acreage for abnormal weather or disease.* If the county committee determines (with the approval of a representative of the State committee) that for any year the sum of the final tobacco acreage, any acreage transferred from the farm, and the acreage regarded as planted to tobacco under the conservation practices, is less than 75 percent of the allotment (after any reduction for violation) because of abnormal weather or disease, the tobacco history acreage for such year shall be adjusted to become the smaller of (i) the allotment (prior to any reduction for violation), or (ii) the sum of the final tobacco acreage for the farm, the additional acreage which the county committee determines (with the approval of a representative of the State committee) would have been included in the final acreage except for abnormal weather or disease, any acreage leased and transferred from the farm, the acreage regarded as planted to tobacco under the conservation programs and conservation practices, and the amount of any reduction for violation. Any adjustment in tobacco history acreages because of abnormal weather or disease shall not be considered as acreage devoted to tobacco in determining whether or not 75 percent of the allotment is planted. No adjustment for abnormal weather or disease shall be made unless the farm operator requests such an adjustment in writing to the county committee no later than September 1 of the crop year involved.

(4) *Zero allotment farms.* A farm for which a farm acreage allotment of zero was established shall not be credited with any tobacco history acreage.

(5) *Allotments in eminent domain pool.* The farm acreage allotment in the eminent domain pool, as provided in Part 719 of this chapter, shall be considered fully planted during the years in the pool, including any year in which the pooled allotment is released by the displaced owner to the county committee for reapportionment to other farms in

the county. The tobacco history acreage shall be the same as the pooled allotment.

(6) *All history acreage is restored history acreage.* A farm shall be considered to have no tobacco history acreage during the base period and shall not be considered an old farm if the only tobacco history acreage computed for the farm during the base period consists of tobacco history acreage restored from a reduction of the farm acreage allotment for violation of the regulations in this part.

(7) *Tobacco history acreage for new farms.* The tobacco history acreage for a farm for the year it received an allotment as a new farm shall be the same as the new farm allotment if as much as 75 percent of the allotment is planted in such year. If less than 75 percent of the new farm allotment is planted, the tobacco history acreage shall be the same as the planted acreage. No adjustment for abnormal weather or disease shall be made in the tobacco history acreage for the farm for the year it was a new farm.

§ 724.58 Determination of old farm tobacco acreage allotments.

The preliminary allotments determined for all old farms pursuant to § 724.57 shall be adjusted uniformly so that the total of such allotments for old farms plus a reserve acreage available for adjusting inequities in acreage allotments for old farms and for correcting errors in old farm allotments shall not exceed the national acreage allotment less that part of such reserve acreage set aside for establishing new farm allotments.

§ 724.59 Determination of normal yields for old farms.

The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during any of the years of the base period for which data are available, (b) the soil and other physical factors affecting the production of tobacco on the farm, and (c) the yields obtained on other farms in the locality which are similar with respect to such factors. The normal yield first determined for a farm for any year in accordance with the foregoing provision shall serve as the normal yield for the farm for all purposes in connection with the tobacco marketing quota program for the year for which such normal yield is determined.

§ 724.60 Correction of errors and adjusting inequities in acreage allotments for old farms.

(a) *General.* Notwithstanding the limitations contained in any other section of this subpart, the farm acreage allotment for each kind of tobacco established for an old farm may be increased to correct an error or adjust an inequity if the county committee determines, with the approval of a representative of the State committee, that the increase is necessary to establish an allotment for such farm which is fair and equitable in relation to the allotment for other old farms in the county in which the farm is located. An amount not to exceed 1 percent of the national acreage allotment for each kind of tobacco minus that part of the national reserve set aside for establishing new farm allotments shall be made available for adjusting inequities and for correcting errors. The reserve acreage for adjusting allotments under this paragraph will be prorated based on the relationship of each State's preliminary acreage allotment to the national total. The national office will advise State offices of the amount. Correction of errors shall be made out of the reserve acreage before allotments are adjusted for inequities.

(b) *Basis for adjustment.* Acreage increases to adjust inequities in acreage allotments shall be made on the basis of the past farm acreage and past farm acreage allotments of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The total of all adjustments in old farm allotments under this paragraph shall not exceed the acreage allocated for such purpose. The sum of adjustments for farms in a county owned, operated, or controlled by the State, county and community committeemen and the county executive director, shall not be larger in relation to the sum of the preceding year's allotments for such farms than the sum of the adjustments for other farms in such county in relation to the preceding year's allotments for such farms.

(c) *CR, CCP, and CAP farms.* The allotment for a farm under a conservation reserve contract or a farm under a cropland conversion program agreement, or land under a cropland adjustment agreement shall be given the same consideration under this section as the allotment for any other old farm.

(d) *Approved acreage.* Acreage approved for a farm under this section becomes a part of the farm acreage allotment.

§ 724.61 Time for making reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year.

Any reductions made with respect to a farm's acreage allotment for the current year for any of the reasons provided for in § 724.95, excluding paragraph (c), shall be made no later than: (a) April 1 of the current year in the State of Virginia; or (b) May 1 of the current year in all other States. If the reduction cannot be made by such dates for the current year, the reduction shall be made with respect to the acreage allotment next established for the farm, but no later than by corresponding dates in a subsequent year: *Provided, however,* That no reduction shall be made in the acreage allotment for any farm for a violation if the acreage allotment for such farm for any prior year was reduced on account of the same violation.

§ 724.62 Determination of acreage allotments for new farms.

(a) *General.* The acreage allotment, other than an allotment made under § 724.67(a), for a new farm shall be that acreage which the county committee, with approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed 50 percent (75 percent for Cigar binder and Cigar-filler and Binder tobacco) of the average of the acreage allotments established for two or more but not more than five old tobacco farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further,* That, if the acreage planted to tobacco on a new tobacco farm is less than 75 percent of the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the planted tobacco acreage on the farm.

(b) *Eligibility requirements for operator.* A tobacco acreage allotment shall not be established for a new farm unless the operator meets each of the following conditions:

(1) *Owner and operator of farm.* The operator must be the sole owner of the farm. However, both husband and wife shall be considered the sole owner and operator of a farm which they own jointly. For Cigar binder and Cigar-filler and Binder tobacco, the operator need not own the farm.

(2) *Interest in another farm.* The operator shall not own or operate another farm in the United States with a current year allotment or quota for any kind of tobacco.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and other facilities necessary to successfully produce the kind of tobacco requested.

(4) *Previous new farm allotment or quota.* Operator must not have been approved for a new farm allotment or quota for any kind of tobacco in the preceding 3 years.

(5) *Experience*—(i) *Fire-cured, Dark air-cured and Virginia sun-cured.* Operator must have had experience in producing, harvesting, and marketing the kind of tobacco requested in the application. Such experience must have been gained: (*a*) By being a sharecropper, tenant, or farm operator (bona fide tobacco production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement); (*b*) during at least two of the 5 years immediately preceding the year for which the new farm allotment is requested (if the

operator was in the armed services during the 5-year period, the period shall be extended 1 year for each year of military service during the 5 years, but in no case shall the experience period extend more than 10 years); and (c) on a farm having a tobacco allotment or quota of the kind of tobacco requested in the application established for such years.

(ii) *Cigar binder and Cigar-filler and Binder.* Operator shall have had experience in any prior year in the production of tobacco as a farm owner, farm operator, sharecropper, tenant, wagehand, or laborer on a farm which produced the kind of tobacco for which an allotment is requested in the application.

(6) *Income requirement (except cigar tobacco).* Where the farm is operated by an individual, the operator must expect to obtain more than 50 percent of his current year income from farming. If operated by a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming. If operated by a corporation, the corporation must have no major corporate purpose other than ownership or operation of such farm, and farming must provide its officers and general manager with more than 50 percent of their expected income for the current year. Salaries and dividends from the corporation shall be considered as income from farming.

(i) *Operator's income from farming.* (*a*) The estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm shall be included in addition to the value of agricultural products sold.

(*b*) The estimated return from the production of the requested quota shall not be included.

(ii) *Spouse's income.* The spouse's farm and nonfarm income shall be included in the operator's income computation when the spouse is also part owner.

(7) *Special provision for low-income farmers (except cigar tobacco).* The county committee may waive the income provisions in this section provided they determine that the farm operator's income, from both farm and nonfarm sources, is so low that it will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making their determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(c) *Eligibility requirements for farms.* A tobacco acreage allotment shall not be established for a new farm unless the farm meets each of the following eligibility conditions.

(1) *Current allotment or quota.* The farm must not have on the date of approval of a new farm acreage allotment an allotment or quota for any kind of tobacco.

(2) *Land, soil, and topography.* The available land, type of soil, and topography of the land on the farm for which the allotment is requested is suitable for the production of the kind of tobacco requested in the application. Also, the production of such kind of tobacco on the farm ordinarily will not result in an undue erosion hazard under continuous production.

(3) *Eminent domain agency.* The farm cannot include land acquired by an agency having right of eminent domain until 5 years after the former owner was displaced.

(4) *Reconstitution—owner designation.* A farm which includes land which has no tobacco allotment because the owner did not designate a tobacco allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter is not eligible for a new farm tobacco allotment for 5 years beginning with the year the reconstitution became effective.

(d) *Filing applications.* In order to be considered for a new farm tobacco acreage allotment the farm operator must file a written application at the office of the county committee by February 15 of the calendar year for which the allotment is requested, except, that in the case of Cigar binder (types 51 and 52) tobacco and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco, the application shall be so filed not later than March 5 of the current year.

(e) *Downward adjustment.* The acreage allotments established as provided in this section for each kind of tobacco shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms.

(f) *Cancellation of new farm allotment.* Any improperly established new farm allotment is subject to cancellation under the provision in § 724.95(d).

(g) *Permanent transfer of tobacco allotment.* Any farm from which the entire farm allotment for Fire-cured, Dark air-cured, or Virginia sun-cured tobacco is transferred by sale, lease, or by owner to another farm owned or controlled by him, under § 724.70, shall not be eligible for a new farm tobacco allotment for the kind transferred during the 5 years following the year in which such transfer is made.

(h) *Eligibility for surrendered acreage for Cigar binder and Cigar-filler and Binder tobacco.* Any new farm allotment established under this section may also be considered by the county committee to receive additional acreage from the acreage surrendered to the State committee under § 724.72.

§ 724.63 Determination of normal yields for new farms.

The normal yield for a new farm shall be that yield per acre which the county committee determines is normal for the farm as compared with yield for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

§ 724.64 Determination of acreage allotments and normal yields for farms shifted from production of Shade-grown cigar-leaf (type 61) wrapper tobacco to production of Cigar-binder (types 51 and 52) tobacco or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco.

(a) Notwithstanding the foregoing provisions of this part, an allotment may be established for a farm for the current year which in the preceding year was producing Shade-grown cigar-leaf (type 61) wrapper tobacco but on which Cigar-binder (types 51 and 52) tobacco or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco will be produced in the current year. The acreage used for such purpose will be limited to that placed in the State pool pursuant to § 724.67(c). Any allotment established pursuant to this paragraph shall, to the extent of available acreage in such pool, be determined by the county committee so as to be fair and equitable in relationship to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowance for drought, flood, hail, other abnormal weather conditions, plant bed and other diseases; land, labor and equipment available for the production of tobacco, crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Allotments established pursuant to this paragraph shall be eligible for consideration for adjustment under § 724.60.

(b) The normal yield for any farm for which an allotment is established under paragraph (a) of this section shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 724.59 for similar farms in the community.

§ 724.65 Approval of allotments and marketing quotas and notice of farm acreage allotments.

(a) All farm acreage allotments and yields shall be determined by the county committee of the county in which the farm is located and shall be reviewed by a representative of the State committee. The State committee may revise or require revision of any determination made under the regulations in this part. All acreage allotments and yields shall be approved by a representative of the State committee, and no official notice of acreage allotment shall be mailed to a farm operator until such allotment has been so approved, except that revised acreage allotment notices without such prior approval may be

mailed in cases (1) resulting from reconstitutions that do not involve the use of additional acreage or (2) of allotment reductions due to failure to return marketing cards where a satisfactory report of disposition of tobacco is not otherwise furnished as provided in § 724.95.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. Insofar as practical, all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice containing thereon the date of mailing shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm for which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) a violation of the marketing quota regulations for a prior marketing year, (2) removal of the farm from agricultural production, (3) division of the farm, or (4) combination of the farm, mailing of the notice of such allotment may be delayed: *Provided*, That the notice of allotment for any farm shall be mailed no later than (i) April 1 of the current year in the State of Virginia, or (ii) May 1 of the current year in all other States.

(d) If the county committee determines with the approval of the State executive director, that (1) the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and (2) the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith (i) materially changed his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor) or (ii) has planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the current year, except that in determining whether or not 75 percent of the allotment is planted, the provisions of § 724.57 shall be followed.

§ 724.66 Application for review.

(a) *Appeal of allotment and marketing quota.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm may, within 15 days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the county ASCS office to have such allotment and marketing quota reviewed by a review committee.

(b) *Farms having excess tobacco acreage, appeal of determination of planted and excess acreage.* Any producer, after official notification of excess tobacco acreage is mailed to him may, within 15 days after the mailing of such notice, file application in writing with the county ASCS office to have such determination of excess acreage and planted acreage (including the farm allotment if not previously reviewed by a review committee) reviewed by a review committee.

(c) *Procedure.* The procedure governing reviews by review committee is contained in Part 711 of this chapter, which is available at the county ASCS office.

§ 724.67 Reallocation and release and reapportionment of allotments determined for farms acquired by an agency having the right of eminent domain, or shifted from production of Cigar-binder (types 51 and 52) tobacco and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco to production of Shade-grown cigar-leaf (type 61) wrapper tobacco.

(a) The determination of allotments for farms acquired by an agency having the right of eminent domain, the transfer of such allotments to a pool, and reallocation from the pool shall be administered as provided in Part 719 of this chapter. The normal yield for each farm to which a reallocation is made as provided in this paragraph shall be determined as provided in § 724.59 for determining normal yields for old farms.

(b) The displaced owner of a farm may, not later than April 1 of the current year in the State of Virginia, and not later than May 1 of the current year in all other States, release in writing to the county committee for the current year all or part of the acreage for the farm in a pool under Part 719 of this chapter for reapportionment for the current year by the county committee to other farms in the county having allotments for the same kind of tobacco. The county committee may reapportion, not later than May 1 of the current year in the State of Virginia, and not later than June 1 of the current year in all other States, the released acreage or any part thereof to other farms in the county on the basis of the past farm acreage and past farm acreage allotments for the same kind of tobacco; land, labor, equipment available for the production of such kind of tobacco; crop rotation practices; and soil and other physical factors affecting the production of such kind of tobacco. The allotment acreage released shall, for tobacco history acreage and future allotment purposes, be considered to have remained in the pool as though it had not been released therefrom.

(c) The allotment determined or which would have been determined for any land which has been used for the production of Cigar-binder (types 51 and 52) tobacco or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco, but which will be shifted in the current year to the production of Shade-grown Cigar-leaf (type 61) wrapper tobacco shall be placed in a State pool and shall be available to the State committee to establish allotments pursuant to § 724.64 (a).

(d) No release and reapportionment of allotment acreage hereunder shall be the result of any private negotiations between individuals. Any acreage released shall be released to the county committee and such acreage shall be reapportioned only by the county committee.

§ 724.68 Transfer of farm marketing quota.

There shall be no transfer of farm marketing quotas except as provided in §§ 724.69 through 724.72 and Part 719 of this chapter.

§ 724.69 Lease and transfer of tobacco acreage allotment—Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, and 53) tobacco.

(a) *Farms eligible.* Subject to the limitations provided in this section, the owner and operator (acting together if different persons) of any farm for which an old farm tobacco acreage allotment is established for the current year may lease and transfer all or any part of the farm acreage allotment established for such farm to any other owner or operator of a farm in the same county with a current year's allotment (old or new farm) for the same kind of tobacco for use on such farm. The lease and transfer of an acreage allotment shall be recognized and considered valid by the county committee subject to the conditions set forth in this section.

(b) *Maximum period.* Transfer of allotments by lease shall not exceed 5 years.

(c) *Filing and approval of transfer agreement—(1) Filing transfer agreement.* The lease and transfer of any allotment or any part thereof from the farm for which the allotment was established to another tobacco farm shall not become effective until a copy of the agreement determined by the county committee to be in compliance with the provisions of this section, is filed with the county committee not later than May 1 of the current year, except that a lease shall be effective if (i) the county committee, with the approval of the State executive director, finds that it was agreed upon no later than May 1 of the current year and (ii) the terms of the lease in writing are filed with the county committee no later than July 31 of the current year. The county committee may redelegate authority to approve leasing agreements to the county executive director. The filing of a properly executed record of transfer of allotment, Form ASCS–375, will be considered to meet the requirements of this subparagraph (1).

(2) *Record of transfer on ASCS–375.* No lease and transfer of any allotment

under this section for 1972 and subsequent crops shall become effective until a record of the transfer has been executed on Form ASCS–375 and filed with the county committee by the parties to the transfer. If the owner and operator of the farm from which transfer by lease is to be made are different persons, both owner and operator shall execute the record of transfer; however, only the owner or operator of the receiving farm is required to sign the transfer. A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any county office convenient to the owner's or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations may be met by mail, provided a request is made by the receiving producer.

(d) *Normal yields.* The county committee shall determine a normal yield per acre, in accordance with the provisions of § 724.59 in the case of old farms, and, in the case of new farms, § 724.63 for each farm from which, and for each farm to which, a tobacco acreage allotment or any part thereof is leased. If the normal yield determined by the county committee for the farm to which the allotment acreage is transferred does not exceed the normal yield determined by the county committee for the farm from which the allotment acreage is transferred by more than 10 percent, the lease and transfer shall be approved acre for acre. If the normal yield determined by the county committee for the farm to which the allotment acreage is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 percent, the county committee shall make a downward adjustment in the amount of the allotment acreage transferred by multiplying the normal yield established for the farm from which the allotment acreage is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment acreage is transferred. In the case of transfers of allotments for 2 or more years, the productivity adjustment and amount of allotment so transferred shall be redetermined by the county committee each year the transfer remains in effect.

(e) *Allotment acreage considered fully planted.* The amount of allotment acreage which is leased from a farm (prior to any reduction made under this section) shall be considered for the purpose of determining future allotments (and tobacco history acreage) to have been planted to tobacco on such farm. The amount of allotment acreage which is leased and transferred to a farm shall not be taken into account in establishing allotments for subsequent years for such farms.

(f) *Limit on acreage transferred.* For the 1972 and subsequent crops of Cigar-filler and Binder (types 42, 43, 44, and 53), or Cigar-binder (types 51 and 52) tobacco, the total acreage allotted to any farm after the transfer by lease of tobacco acreage allotment to the farm (the sum of its own allotment and acreage leased and transferred to it after any adjustment in normal yield) shall not exceed 50 percent of the acreage of cropland in the farm, except that in the case of Cigar-filler (types 42, 43, and 44) transfers, the acreage shall be limited to the smaller of 10 acres or 50 percent of the acreage of cropland in the farm.

(g) *New farm allotment.* A new farm allotment shall not be leased or transferred.

(h) *Farms under long-term land-use programs.* A transfer of an allotment to or from a farm covered by a Cropland Adjustment Program agreement shall not be approved if the transferring or receiving farm has the allotment base designated under such program agreement.

(i) *Transfer from the pool.* Allotments in a pool pursuant to Part 719 of this chapter may be eligible for lease and transfer during the 3-year life of the pooled allotment. An agreement to lease and transfer shall not serve to extend the life of such pooled allotment.

(j) *Subleasing and limitation on lease and transfer to and from a farm*—(1) *No subleasing.* No transfer shall be made from a farm receiving allotment under a transfer agreement for the term of the transfer agreement.

(2) *Limitation on lease and transfer to and from a farm for the same crop year.* If a lease and transfer agreement is in effect for any farm, no transfer of allotment shall be made (i) from such farm receiving allotment by transfer or, (ii) to such farm which had allotment transferred from it.

(k) *Revised notices.* An ASCS–375 showing the allotment acreage after lease and transfer shall be issued by the county committee to each of the operators of all farms from which or to which a tobacco allotment acreage is leased under this section.

(l) *Farms in violation.* If consideration of a violation is pending which may result in an allotment reduction for a farm for the current year, the county committee shall delay approval of any lease and transfer of allotment from or to the farm until the violation is cleared or the allotment reduction is made. However, if the allotment reduction in such a case cannot be made effective for the current crop year before the final date for reducing allotments for violations (see § 724.61) the lease may be approved by the county committee. In any case, if, after a lease and transfer of a tobacco acreage allotment has been approved by the county committee, it is determined that the allotment for the farm from which or to which such acreage is leased is to be reduced for a violation, the allotment reduction for such farm shall be delayed until the following year.

(m) *Tobacco acreage allotment.* Except with respect to the erroneous allotment notice provisions in § 724.65 and the provisions for review in § 724.66, the term "tobacco acreage allotment" as used herein shall mean the allotment without regard to the application of the provisions of this section.

(n) *Zero allotment farm.* If the allotment for a farm for the current year is reduced to zero, no tobacco allotment acreage for such kind of tobacco may be leased to such farm for the current year.

(o) *Approval after review period.* No lease shall be approved by the county committee for any farm involved in a lease and transfer of allotment acreage until the time of filing an application for review, as shown on the original allotment notice for the farm, has expired. If an application for review is filed for a farm involved in a lease and transfer agreement, such agreement shall not be approved by the county committee until the allotment for such farm is finally determined pursuant to Part 711 of this chapter.

(p) *Acreage allotment after lease and transfer.* The acreage allotment finally determined (after lease and transfer) for a farm under the provisions of this section shall be the allotment for such farm for the current year only for the purpose of determining (1) excess acreage, (2) the amount of penalty to be collected on marketings of excess tobacco including absorption of carryover penalty tobacco, (3) eligibility for price support, and (4) the farm marketing quota and the percentage reduction for a violation in the allotment for the farm (see § 724.95). Such percentage reduction determined as applicable when the violation occurred shall be applied to the allotment being reduced prior to any lease and transfer of allotment.

(q) *Cancellation, dissolution, or revision of transfer*—(1) *Cancellation.* Any transfer of allotment under this section which was approved by the county committee in error or on the basis of incorrect information furnished by the parties to the agreement shall be cancelled by the county committee. Such cancellation shall be effective as of the date of approval for purposes of determining eligibility for price support and marketing quota penalties except that such cancellation shall not be effective for the current marketing year for price support and marketing quota penalty purposes if: (i) The transfer approval was made in error or on the basis of incorrect information unknowingly furnished by the parties to the leasing agreement; and (ii) the parties to the leasing agreement were not notified of the cancellation before the tobacco was planted. The provisions of this subparagraph (1) shall not preclude application of the erroneous notice provisions under § 724.65 where such provisions are applicable.

(2) *Dissolution or revision.* A lease agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committee. Such written notification shall be filed prior to planting the tobacco, except that dissolution or revision shall be effective if (i) the county committee, with the approval of the State executive director, finds that

it was agreed upon prior to planting the tobacco and (ii) the terms of the dissolution or revision in writing are filed with the county committee no later than July 31 of the current year. In such a case an official notice of the effective farm acreage allotment reflecting the dissolution or revision shall be issued by the county committee to each of the operators involved in the leasing agreement. If the request to dissolve or revise the lease is made after the applicable closing time for the current year, but prior to the last crop year for which the lease agreement is effective, the next allotment established for the farm shall reflect the dissolution or revision.

(r) *Reconstituted farm.* The allotment for a farm being divided or combined in the current year shall be the allotment after lease and transfer has been made. Notwithstanding the above, in the case of a division, the county committee shall allocate the acreage that was transferred by lease to the tracts involved in the division as the parent farm owners and operators designate in writing. In the absence of such designation, the county committee shall apportion the leased acreage.

(s) *Consent of lienholder.* No transfer of allotment other than by annual lease shall be made from a farm subject to a mortgage or other lien unless the transfer is agreed to in writing by the lienholder.

§ 724.70 Transfer of Fire-cured, Dark air-cured, and Virginia sun-cured tobacco allotments by lease, sale, or by owner under section 318 of the act.

Based on the present and future outlook of production and disappearance of Fire-cured, Dark air-cured, and Virginia sun-cured tobacco, it has been determined that transfer of tobacco allotments by sale, lease, or by owner will not impair the effective operating of the 1972 and subsequent year's marketing quota or price support programs for such kinds of tobacco. Transfers under section 318 of the Act shall be handled in accordance with this section.

(a) *Persons eligible to file a record of transfer (Form ASCS–375)*—(1) *Sale or lease.* The owner and operator of any old farm as defined in § 724.51 for which a Fire-cured, Dark air-cured, or Virginia sun-cured tobacco allotment is or will be established for a year in which a transfer by sale or lease is to take effect shall be eligible to file a record of transfer for sale or lease of all or any part of such allotment to any other owner or operator of a farm in the same county, and in the same State for Virginia fire-cured (type 21) and Virginia sun-cured (type 37) tobacco. The receiving farm need not be an old farm. If the owner and operator of the farm from which transfer by sale or lease is to be made are different persons, both such persons shall execute the record of transfer; however, only the owner or operator of the receiving farm is required to sign the transfer. A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any county office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations may be met by mail, provided a request is made by the receiving producer. In the case of a permanent transfer, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

(2) *By owner.* The owner of any old tobacco farm, as defined in § 724.51 for which a Fire-cured, Dark air-cured, or Virginia sun-cured tobacco allotment is or will be established for the year in which the transfer is to take effect is eligible to file a record of transfer to transfer an allotment, for a term of years designated by the owner, or permanently for any or all of such kinds of tobacco from a farm to another farm in the same county (within the same State for Virginia fire-cured and Virginia sun-cured tobacco) owned or controlled by such owner.

(b) *Filing record of transfer.* A Form ASCS–375, Record of Transfer of Allotment or Quota, shall be filed for transfers to take effect in the current year during the period October 1 of the preceding year and not later than May 1 of the current year. The State committee may authorize the acceptance of a late-filed ASCS–375 in cases where it determines that the late filing resulted from misunderstanding of the filing requirements after oral discussion between the applicant and a representative of the county committee.

(c) *Where to file record of transfer.* Record of transfer shall be filed with the county committee of the county where the transferring farm is administratively located.

(d) *Maximum period of transfer by lease.* Transfer of allotments by lease shall not exceed 5 years.

(e) *When transfer is effective.* A transfer shall not be effective until a record of such transfer has been executed and the county committee determines the transfer to be in compliance with the provisions of this section. Approval by the county committee shall be shown on the ASCS–375. The county committee may redelegate authority to approve transfer agreements to the county executive director.

(f) *Productivity adjustment*—(1) *Reduction in farm allotments being transferred.* The county committee shall determine a normal yield per acre, in accordance with the provisions of § 724.59 in the case of old farms and § 724.63 in the case of new farms for each farm from which, and for each farm to which, a tobacco acreage allotment or any part thereof is transferred. (For across county line transfers, the county committee for the county in which each farm is located shall determine the normal yield.) If the normal yield for the farm to which transfer is made for the year the transfer is to take effect exceeds the normal yield for the farm from which transfer is made for the year the transfer is to take effect by more than 10 percent, the allotment so transferred shall be reduced for differences in farm productivity. The county committee shall determine the amount of allotment to be transferred by sale, lease, and by owner, where productivity adjustment is required under this paragraph as follows: (i) Multiply the normal yield established for the farm from which the allotment is being transferred by the acreage being transferred, then (ii) divide the result by the normal yield established for the farm to which the allotment is transferred. The amount of allotment so transferred from a farm shall be the full amount and the amount of allotment so transferred to a farm shall be the reduced amount. In the case of temporary transfers of allotment for 1 or more years by lease or by owner, the productivity adjustment and amount of allotment so transferred shall be redetermined by the county committee each year the transfer remains in effect.

(2) *Adjustment in farm history acreage.* The farm history acreage for the immediately preceding 5 years on farms from which and to which permanent transfer of allotment is made shall be adjusted by the county committee for each of the base years to correspond with the amount of allotment transferred between the farms. In the case of temporary transfers of allotment for one or more years by lease or by owner, there shall be no reduction in farm history acreage on the farm from which the transfer is made and no farm history acreage shall be transferred to the receiving farm.

(g) *Sale and lease transfers—limit on amount of acreage transferred.* The total of the Fire-cured, Dark air-cured, or Virginia sun-cured tobacco allotment which may be transferred for each kind of tobacco, by sale, lease, or by owner, to a farm shall not exceed 10 acres of allotment: *Provided,* That the total of each acreage for each kind of tobacco allotted to any farm after such transfer (the sum of its own allotment and the acreage transferred after any adjustment in normal yields for the current year) shall not exceed 50 per centum of the acreage of cropland in the farm. The cropland in the farm for the current year for purposes of such transfers shall be the total cropland as defined in Part 719 of this chapter. If the farm to which allotment is to be transferred is made up of two or more separately owned tracts, each separately owned tract shall be considered a farm for the purpose of applying limitations of this paragraph.

(h) *No transfer of new farm allotment.* No transfer of allotment shall be made from a farm if for the current year or within the three immediately preceding crop years such farm received a new farm tobacco allotment.

(i) *Additional conditions applicable to transfer*—(1) *No permanent transfer by sale or by owner from farm to which a permanent transfer by sale or by owner was made within 3 years.* No permanent

transfer by sale or by owner shall be made from any farm to which an allotment was permanently transferred by sale or by owner within the three immediately preceding crop years.

(2) *Limited years for temporary transfer to operator's farm.* A transfer requested on a temporary basis to a farm controlled but not owned by the applicant shall be approved only if the applicant will be the operator of the farm to which the transfer is to be made for each year of the period for which the transfer is requested. When the applicant for whom such transfer has been approved no longer is the operator of the receiving farm due to conditions beyond his control, the transfer shall remain in effect unless the transfer is terminated under paragraph (v) of this section. Conditions beyond the operator's control shall include, but not be limited to, death, illness, incompetency, or bankruptcy of such person.

(j) *Transfer of pooled allotment.* Allotments established for a farm as pooled allotment under Part 719 of this chapter may be transferred (1) on a permanent basis during the 3-year life of a pooled allotment or (2) on a temporary basis for a term of years not to exceed the remaining number of crop years of such 3-year period. A temporary agreement to transfer shall not serve to extend the life of such pooled allotment.

(k) *Consent of lienholder.* No transfer of allotment, other than by annual lease, shall be made from a farm subject to a mortgage or other lien unless the transfer is agreed to in writing by the lienholder.

(l) *New farm eligibility.* Any farm from which the entire farm allotment is transferred shall not be eligible for a new farm tobacco allotment for the kind transferred during the 5 years following the year in which such transfer is made.

(m) *Farms under long-term land-use programs.* Transfer of an allotment from a farm covered by a Conservation Reserve Program (CR), Cropland Adjustment Program (CAP), or Cropland Conservation Program (CCP), shall be subject to the following conditions:

(1) *CAP and CCP (1966 and 1967).* (i) A temporary transfer of an allotment shall not be approved if the transferring or receiving farm has the allotment crop base for a kind of tobacco designated under such program agreement. (ii) A permanent transfer by sale or by owner of an allotment may be approved for any farm under a CAP or CCP agreement.

(2) *Adjustments in payment rates.* Any transfer of an allotment hereunder shall be made subject to an appropriate adjustment in the rates of payment under such contract or agreement but no adjustment shall be made in such contract or agreement on the farm to which a transfer is made.

(n) *Subleasing prohibited.* No transfer shall be made from a farm receiving allotment under a transfer agreement for the term of the transfer agreement.

(o) *Limitation on transfer to and from a farm in the same year.* No transfer of allotment for any year shall be made (1) from a farm receiving allotment by transfer for such year or (2) to a farm which had allotment transferred from it for such year.

(p) *Transfer of history acreage, farm base, and marketing quota.* Permanent transfer of allotment shall have the effect of transferring history acreage, farm base, and marketing quota attributable to such allotment. In the case of a transfer by lease, the transferred allotment shall be considered for purposes of establishing future allotments to have been planted on the farm from which such allotment was transferred.

(q) *Liability of operators of farms receiving transferred acreage by lease.* The acreage allotment for a farm determined after transfer by lease shall be the allotment for such farm for the current year only for the purposes of determining (1) excess acreage, (2) the amount of penalty to be collected on marketings of excess tobacco including absorption of carryover penalty tobacco, (3) eligibility for price support, and (4) the farm marketing quota and the percentage reduction for a violation in the allotment for the farm (see § 724.95). Such percentage reduction determined as applicable when the violation occurred shall be applied to the allotment being reduced prior to any transfer of allotment by lease.

(r) *Reconstituted farms.* The allotment for a farm being divided or combined in the current year shall be the allotment for the farm after transfer by lease has been made. Notwithstanding the above, in the case of a division, the county committee shall allocate the acreage that was transferred by lease to the tracts involved in the division as the parent farm owners and operators designate in writing. In the absence of such designation, the county committee shall apportion the leased acreage.

(s) *Farm in violation.* The maximum acreage that can be transferred from a farm is the allotment for the current year. If a violation on the transferring farm is determined after the transfer but the operator of the receiving farm was not involved in the violation, the allotment so transferred shall not be subject to a reduction: *Provided,* That if the transfer was by lease, when the allotment is restored to the transferring farm the allotment reduction shall be effected.

(t) *Approval of transfers.* The county committee shall approve transfers of allotment only if it determines that an ASCS–375 was timely filed and that the transfer complies with the requirements of this section. No transfer shall be effective until approval as provided under this paragraph is obtained.

(u) *Notice of revised allotments.* The county committee shall issue revised notices (copy of ASCS–375) of farm allotment for each farm affected by the transfer of allotment.

(v) *Cancellation, dissolution, or revision of transfer*—(1) *Cancellation.* Any transfer of allotment and quota under this section which was approved by the county committee in error or on the basis of incorrect information furnished by the parties to the agreement shall be canceled by the county committee. Such cancellation shall be effective as of the date of approval for purposes of determining eligibility for price support and marketing quota penalties except that such cancellation shall not be effective for the current marketing year for price support and marketing quota penalty purposes if: (i) The transfer approval was made in error or on the basis of incorrect information unknowingly furnished by the parties to the leasing agreement; and, (ii) the parties to the leasing agreement were not notified of the cancellation before the tobacco was planted. The provisions of this subparagraph (1) shall not preclude application of the erroneous notice provisions under § 724.65 where such provisions are applicable.

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committees. Such written notification shall be filed prior to planting the tobacco.

§ 724.71 Transfer of tobacco farm acreage allotment for farms affected by a natural disaster.

(a) *Designation of counties affected by a natural disaster.* The Deputy Administrator shall determine for any year those counties affected by a natural disaster (including but not limited to hurricane, rain, flash flood, hail, drought, and any other severe weather) which prevents the timely planting or replanting of any or all of the tobacco acreage allotments for any farm in the county. The county committees shall post in the county office a notice of any such determination affecting the county and, to the extent practicable, shall give general publicity in the county to such determination.

(b) *Application for transfer.* The owner or operator of a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of tobacco acreage within the farm tobacco allotment for such year to another farm or farms in the same county or in an adjoining county in the same or another State if such acreage cannot be timely planted or replanted because of the natural disaster determined for such year. The application shall be filed with the county committee in which the farm affected by such disaster is located. If the application involves a transfer to an adjoining county, the county committee for the adjoining county shall be consulted before action is taken by the county committee receiving the application.

(c) *Amount of transfer.* The acreage to be transferred shall not exceed the smaller of (1) the farm allotment established under this part less such acreage planted to tobacco and not destroyed by the natural disaster, or (2) the acreage requested to be transferred.

(d) *County committee approval.* The county committee shall approve the transfer if it finds that the following conditions have been met:

(1) All or part of the farm allotment for the farm from which the acreage is

to be transferred could not be timely planted or replanted because of the natural disaster and planting was not prohibited by the lease in the case of lands owned by the Federal Government.

(2) One or more of producers of tobacco on the farm from which the acreage is to be transferred will be a bona fide producer engaged in the production of tobacco on the farm to which the acreage is to be transferred and will share in the crop or in the proceeds of the tobacco.

(e) *Cancellation of transfers.* If a transfer is approved under this section and it is later determined that the conditions in paragraph (d) of this section have not been met, the county committee, State committee, or the Deputy Administrator may cancel such transfer. Action by the county committee to cancel a transfer shall be subject to the approval of the State committee or its representative.

(f) *Acreage history credits and eligibility as an old tobacco farm.* Any acreage transferred under this section shall be considered for the purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred.

(g) *Closing dates.* The closing date for filing applications for transfers with the county committee shall be July 15 of the current year. Notwithstanding such closing date requirement, the county committee may accept applications filed after the closing date upon a determination by the county committee that the failure to timely file an application was the result of conditions beyond the control of the applicant and a representative of the State committee approves such determination.

§ 724.72 Surrender and reallocation of old farm acreage allotments for Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco.

(a) *Annual or permanent surrender of acreage allotments to State committee.* Except as provided in this paragraph, all or any part of a farm acreage allotment on which Cigar-binder (types 51 and 52) or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco will not be produced and which the operator of the farm voluntarily surrenders on an annual basis, or both the owner and operator voluntarily surrenders on a permanent basis, in writing to the State committee by not later than March 5 of the current year, shall be deducted from the allotment of such farm.

(1) For the farm voluntarily surrendering tobacco farm acreage allotment on an annual basis, such acreage will be considered as having been planted on the surrendering farm for the purpose of establishing allotments for subsequent years. For the farm receiving such annual surrendered acreage such acreage shall not be taken into account in establishing future allotments for the farm. The tobacco history acreage for a farm surrendering on a permanent basis shall be adjusted downward to reflect the acreage permanently surrendered.

(2) Acreage allotments shall not be surrendered either annually or permanently (i) from farm owned by the Federal Government or any agency thereof if there is in effect a lease or operating agreement prohibiting the production of Cigar-binder (types 51 and 52) or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco (ii) from the eminent domain allotment pool if an application for transfer from the pool has been filed in accordance with Part 719 of this chapter, (iii) from new farms, or (iv) from a farm covered by a whole farm Conservation Reserve Contract, by a whole farm Cropland Conservation Program agreement entered into in 1966 and 1967, or by a Cropland Adjustment Program Agreement.

(b) *Reallocation of surrendered acreage allotment.* The acreage voluntarily surrendered on an annual or permanent basis for the current year may be reallocated by the State committee to any farm in any county in the State. In addition, a farm receiving a new farm allotment may be considered for an increase as set forth in § 724.62(h). The State committee shall select the counties to which the surrendered acreage will be reallocated. The county committee shall select the farms to which the surrendered acreage will be reallocated. The State committee shall keep records on both an annual and permanent basis of the source of acreage surrendered. Any acreage surrendered for the current year on an annual basis which is not reallocated by the State committee in the current year shall not be available for use in any subsequent year. Any acreage surrendered for the current year on a permanent basis which is not reallocated by the State committee in the current year may be reallocated in the following year. The county committee for the county receiving surrendered acreage may reallocate the tobacco allotment acreage on an annual or permanent basis to other farms in the county in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for production of Cigar-binder (types 51 and 52) or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco; crop rotation practices, and the soil and other physical factors affecting the production of tobacco. Surrendered acreage should not be reallocated on a temporary or permanent basis to any farm unless there is assurance from the operator to the county committee that the surrendered acreage being received will be produced. Allotment reallocated to a farm on an annual basis can only be used by the receiving farm for increased production during the current year. Allotment reallocated to a farm on a permanent basis shall be added to the current year allotment if the farm has an allotment or serve to establish an allotment for a farm that does not currently have one. A farm shall be eligible to receive reallocation of surrendered acreage on either or both an annual or permanent basis only if a written request is filed by the farm owner or operator at the office of the county committee not later than March 5 of the current year.

IDENTIFICATION OF TOBACCO, MARKETING AND OTHER DISPOSITION OF TOBACCO, AND PENALTIES

§ 724.79 Identification of kinds of tobacco.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths of a kind and type shall be considered such kind and type without regard to any factor of historical or geographical nature which cannot be determined by examination of the tobacco. The term "tobacco" with respect to any farm located in an area in which one or more of a kind and type of tobacco as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture, is normally produced shall include all acreage of tobacco, excluding other kinds subject to marketing quotas, on a farm unless the county committee with the approval of the State committee determines from satisfactory proof furnished by the operator of the farm that a part or all of the production of such acreage has been certified by the Consumer and Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511), and regulations issued pursuant thereto, as a kind and type of tobacco not subject to marketing quotas. Any amount of tobacco so determined as a kind and type of tobacco not subject to marketing quotas shall be converted to acres on the basis of the average yield per harvested acre of tobacco grown on the farm for the purpose of determining the harvested acreage of such kind of tobacco produced on the farm.

§ 724.80 Disposition of excess tobacco.

(a) *Where tobacco acreage exceeds the allotment.* (1) The farm operator may dispose of excess tobacco prior to the marketing from the farm of any of the same kind of tobacco by furnishing to the county committee proof satisfactory to the committee that such excess tobacco will not be marketed. Such disposition of excess tobacco, subject to the provision of subparagraph (2) of this paragraph, may take place before harvesting, during harvesting, or after completion of harvesting of the kind of tobacco involved from the farm.

(2) No credit toward liquidating excess acreage shall be given for any excess tobacco disposed of after harvest, but prior to marketing, unless the county committee determines that such tobacco is representative of the entire crop from the farm of the kind of tobacco involved.

(b) *Harvested acreage.* The harvested acreage from a farm shall not include harvested acreage disposed of under this section.

§ 724.81 Issuance of producer marketing cards.

(a) *General.* (1) A marketing card for use in identifying each kind of tobacco shall be issued for the current year for

each farm having tobacco available for marketing. The kind of card to be issued shall be determined pursuant to this section. Cards shall be issued in the name of the farm operator except that (i) cards issued for experimental tobacco shall be issued in the name of the experiment station, (ii) cards issued to a successor-in-interest shall be issued in the name of the successor-in-interest and (iii) where a part of a farm which includes all the tobacco acreage on the farm is cash-rented to one producer, cards shall be issued in the name of the one producer. A marketing card may be issued in the name of a producer who is not the farm operator if the county committee determines pursuant to the procedure in subparagraph (2) of this paragraph that such producer has been or likely will be deprived of the right to use the marketing card issued for the farm to market his proportionate share of the current crop.

(2) If the county committee has reason to believe that one or more producers of the current crop tobacco on the farm have been or likely will be deprived of the right to use such marketing card to market his or their proportionate shares of the crop, a hearing shall be scheduled by the county committee and the operator of the farm and the producer or producers involved shall be invited to be present, or to be represented, at which time they shall be given the opportunity to substantiate their claims concerning the use of the farm marketing card to market each such producer's proportionate share of the farm marketing quota for such crop. At least two members of the county committee shall be present at the hearing. The hearing shall be held at the time and place named in the notice. A summary of the evidence presented at the hearing shall be prepared for use of the county committee. If the farm operator or other producers on the farm do not attend the hearing, or are not represented, the county committee may take whatever action it deems proper on the basis of information available to it. If the county committee finds that any such producer on the farm has been or likely will be deprived of the right to use the marketing card issued for the farm to market his proportionate share of the crop, a separate marketing card shall be issued to each such producer who it is determined has been or likely will be deprived of the opportunity to market his proportionate share of the crop.

(3) The procedure in subparagraph (2) of this paragraph shall not apply to a person who was a producer on the farm in a prior year but who is not a producer on the farm of the current crop.

(b) *Person authorized to issue marketing cards.* The county executive director shall be responsible for the issuance of marketing cards. Each marketing card shall bear the actual or facsimile signature of the county executive director who issued the card.

(c) *Rights of producers and successors-in-interest.* (1) Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card for marketing his proportionate share.

(2) Any person who suceeds, other than as a dealer, in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights to the use of the marketing card and assume the same liability for penalties as the original producer.

(d) *Issuance of within quota marketing card.* A within quota marketing card, MQ–76 (eligible for price support), shall be issued for each farm for each kind of tobacco:

(1) With no excess tobacco of such kind available for marketing, or the percent excess is zero.

(2) To identify tobacco grown for experimental purposes only by a publicly owned experiment station.

(e) *Issuance of excess marketing card.* An excess marketing card MQ–77 (ineligible for price support) shall be issued for each farm for each kind of tobacco as follows:

(1) *MQ–77 showing full rate of penalty.* (i) No farm acreage allotment was established, or where an allotment was established and later canceled, or

(ii) The farm operator or another producer on the farm prevents the county committee from obtaining information necessary to determine the correct acreage of tobacco on the farm.

(2) *MQ–77 showing converted rate of penalty.* There is excess tobacco available for marketing and the percent excess exceeds zero percent but is less than 100 percent.

(3) *MQ–77 showing zero penalty.* (i) DDT or TDE or a mixture thereof was used on such kind of tobacco; (ii) the farm had excess tobacco within the tolerance specified in Part 718 of this chapter but has been disposed of in accordance with § 724.80, and in compliance with the time of notification provisions of and in the manner prescribed in Part 718 of this chapter, but not before harvest unless the county committee determines that the producer's failure to dispose of the excess tobacco prior to harvest was because of conditions beyond his control; or (iii) tobacco was produced on land owned by the Federal Government within the allotment for the farm, but in violation of a lease restricting the production of tobacco.

§ 724.82 Extent to which marketing from a farm are subject to penalty.

(a) *Farms having no carryover tobacco.* Marketing of tobacco from a farm having no carryover tobacco shall be subject to penalty by the percent excess determined by dividing the excess acreage of tobacco by the harvested acreage of tobacco for the farm.

(b) *Farms having carryover tobacco.* Marketing of tobacco from a farm having carryover tobacco shall be subject to penalty by the percent excess determined as follows:

(1) (i) Determine the number of "carryover" acres by dividing the number of pounds of carryover tobacco from the prior year by the normal yield for the farm for that year.

(ii) Reduce such "carryover" acres by the amount determined by subtracting the harvested acreage from the allotment in the current year.

(iii) If the "carryover" acres are entirely offset by the underharvested acreage, no penalty will be due on marketings, and the remainder of paragraph (b) of this section will be inapplicable.

(2) Determine the number of "within quota carryover acres" by multiplying the "carryover acres" (subparagraph (1) (i), or (ii), when determined, of this paragraph) by the "percent within quota" (i.e., 100 percent minus the percent excess) for the year in which the carryover tobacco was produced.

(3) Determine the "total acres" of tobacco by adding the "carryover acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the current year's allotment and the "within quota carryover acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).

(c) *Converted rate of penalty.* For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty for the current crop by the percent excess obtained under paragraph (a) or (b) of this section.

§ 724.83 Claim stamping and replacing marketing cards.

(a) *Stamping to show claim.* (1) If any producer on a farm is indebted to the United States and such indebtedness is listed on the county claim record or has another debt required to be collected under applicable regulations, any Form MQ–76 issued for the farm shall bear the notation "U.S. Claim". The amount and type of the indebtedness and the name of the debtor shall be entered on the front cover of the card. A notation showing indebtedness to the United States shall constitute notice to any warehouseman, or loan organization, that subject to prior liens, the net proceeds from any price support loan due the debtor shall be paid to the United States to the extent of the indebtedness shown. The acceptance and use of a marketing card bearing a notice and information of indebtedness of the United States shall not constitute a waiver by the producer of any right to contest the validity of such indebtedness by appropriate administrative appeal or legal action and shall not necessitate a producer accepting a price support advance from which such indebtedness would be deductible. As claim collections are made, the amount of the claim shown on the card shall be revised to show the claim balance, and the floor sheet shall show the amount collected. Upon request of the producer

to whom the card was issued a claim-free marketing card shall be issued when the claim has been entirely paid.

(2) Any marketing card may be stamped for the purpose of notifying warehousemen, or loan organizations, that the tobacco being marketed pursuant to such card is subject to a lien held by the United States.

(b) *Replacing, exchanging, or issuing additional marketing cards.* Subject to the approval of the county executive director, two or more marketing cards may be issued for any farm. Upon the return to the county ASCS office of a marketing card which has been used in its entirety and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information, and identification as the used card shall be issued to replace a card which has been determined by the county executive director who issued the card to have been lost, destroyed, or stolen.

§ 724.84 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) An entry is omitted or is incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or,

(4) Any erasure or alteration has been made and not properly initialed by the county executive director or marketing recorder.

(b) *Validating invalid cards.* If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the county executive director who issued the card, or by a marketing recorder, then such card shall become valid.

(c) *Returning invalid cards.* In the event any marketing card becomes invalid (other than by loss, destruction or theft, or by omission, alteration, or incorrect entry, which has not been corrected by the county executive director who issued the card, or by a marketing recorder), the farm operator, or the person having the card in his possession, shall return it to the county ASCS office at which it was issued.

§ 724.85 Misuse of marketing cards.

Any information which causes a marketing recorder, a member of a State, county, or community committee, or an employee of the State or county ASCS office to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm, shall be reported immediately by such person to the county or State ASCS office.

§ 724.86 Identification of marketings, excluding cigar tobacco.

(a) *MQ–76, within quota card, and MQ–77, excess marketing card.* Subject to paragraph (b) of this section, each marketing of tobacco from a farm shall be identified by the marketing card issued for the farm, either an MQ–76 or MQ–77 (including sale memo). In addition, each nonauction sale shall (1) for within quota farms be indicated by a check mark on the inside of MG–76, and (2) for excess farms for which an MQ–77 is issued be identified by an executed bill of nonauction sale, and such bills of nonauction sale shall be delivered to a marketing recorder or other person who is authorized to issue sale memos.

(b) *Suspended sales and sales without marketing cards.* Any suspended sale, which is not identified by an MQ–76 or MQ–77 (including a sale memo) on or before the last warehouse sale day of the marketing season, or within 4 weeks after the date of marketing, whichever comes first, shall be identified by MQ–82, Sale Without Marketing Card, as a marketing of excess tobacco. Form MQ–82 shall be executed only by a marketing recorder or other representative of the State executive director.

(c) *Other persons authorized to execute MQ–76 or MQ–77 (including sale memos).* (1) A warehouseman, who has been authorized during the current marketing year on MQ–78, Tobacco Warehouse Organization, may record the sale on MQ–76 and issue a sale memo from an MQ–77 to identify a sale by a farmer if a marketing recorder is not available at the warehouse when the marketing card is presented.

(2) Any warehouseman, or dealer, who engages in the business of acquiring scrap tobacco from farmers, and who has been authorized on MQ–78, may for each purchase of scrap tobacco execute an MQ–76, or MQ–77 (including a sale memo if the bill of nonauction sale has been executed).

(d) *Verification of sales processed during absence of marketing recorder.* Any person authorized on MQ–78 to act as a marketing recorder shall promptly present to a marketing recorder for verification each warehouse bill (floor sheet) processed and identified by an MQ–76 or MQ–77 (including any sale memos) executed by him in the absence of a marketing recorder.

(e) *Withdrawal of approval to act as marketing recorder.* The authorization on MQ–78 for persons to act as marketing recorders may be withdrawn by the State executive director if such action is determined to be necessary to properly enforce the regulations in this subpart.

(f) *Verification of penalty by warehousemen or dealers.* Each sale memo for excess tobacco isued by a marketing recorder shall be verified by a warehouseman or dealer to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the sale memo.

(g) *Recording of serial number.* The serial number of the floor sheet shall be recorded by the warehouseman on the check register or check stub for the check written covering the auction sale of tobacco by a producer.

(h) *Separate display of producer tobacco on auction warehouse floor.* Each basket of Fire-cured, Dark air-cured, and Virginia sun-cured producer's tobacco placed on a warehouse floor shall be displayed on baskets separate from tobacco produced on any other farm and shall be identified on the warehouse bill (floor sheet) covering such baskets by the number of the marketing card for the kind of tobacco issued for the farm on which the tobacco was produced. Such kinds of tobacco not so displayed shall not be eligible for price support.

(i) *Identification of returned first sale (producer) tobacco.* When resold at auction, tobacco which has been previously sold and returned to a warehouse by the buyer is resale tobacco. When such tobacco is resold by the warehouseman, it shall be identified as leaf account resale tobacco.

§ 724.87 Identification of marketings of cigar tobacco.

(a) *Marketing card and sale memo for cigar tobacco.* If a sale of producer's cigar tobacco to a buyer is not identified with a marketing card (MQ–76 or MQ–77) issued for the farm, including a sale memo from MQ–77, by the end of the sale date and recorded and reported on MQ–79 (CF&B), Buyer's Record, by the 10th day of the calendar month next following the month during which the sale date occurred, the marketing shall be identified on MQ–79 (CF&B) as a marketing of excess tobacco and reported not later than the 10th day of the calendar month next following the month during which the sale date occurred.

(b) *Verification of penalty by buyer.* Each excess sale memo issued by a buyer shall be verified by the buyer to determine whether the amount of penalty shown to be due has been correctly computed and such buyer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in issuing the sale memo.

§ 724.88 Rate of penalty.

(a) *Basic rate.* The basic penalty rate shall be equal to seventy-five (75) percent of the average market price for the kind of tobacco for the immediately preceding marketing year as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture. The rate of penalty will be determined for each marketing year and announced by amendment to the regulations of this subpart.

(b) *Average market price and rate of penalty.* These data will be issued annually in May or early June.

(c) (1) *1970–71 average market price.* The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, for the 1970–71 marketing year was:

AVERAGE MARKET PRICE

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	52.0
Fire-cured (types 22, 23, 24)	54.4
Dark air-cured	46.0
Virginia sun-cured	53.8
Cigar-filler and Binder (types 42, 43 44, 53, 54 and 55)	48.9
Cigar-binder (types 51 and 52)	63.5

(2) *1971–72 rate of penalty per pound.* The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1971–72 marketing year shall be:

RATE OF PENALTY

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	39
Fire-cured (types 22, 23, 24)	41
Dark air-cured	34
Virginia sun-cured	40
Cigar-filler and Binder (types 42, 43, 44, 53, 54 and 55)	37
Cigar-binder (types 51 and 52)	(1)

[1] Quotas terminated for 1971 crop.

§ 724.89 Persons to pay penalty.

The persons to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Auction sale.* The penalty due on marketings by a producer through an auction sale shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonauction sale.* The penalty due on the tobacco acquired directly from a producer, other than at auction sale, shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Cigar tobacco sold without excess sale memo or within quota card identification.* The penalty due on marketing of cigar tobacco by a producer which, as to excess tobacco, is not identified by a valid sale memo, and, as to within quota tobacco, a within quota card, by the end of the sale date shall be presumed, subject to rebuttal, to be marketings of excess tobacco. The penalty thereon shall be paid by the buyer who may deduct an amount equivalent to the penalty from the amount due the producer.

(d) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 724.90 Penalties considered to be due from warehousemen, dealers, buyers and others excluding the producer.

Any marketing of tobacco under any one of the following conditions shall be considered to be a marketing of excess tobacco.

(a) *Auction sale without marketing card (including sale memo for MQ–77).* Any first marketing of tobacco at an auction sale by a producer which is not identified by a valid marketing card (MQ–76 or MQ–77 (including sale memo)) on or before the last warehouse sale day of the marketing season, or within 4 weeks following the date of marketing, whichever comes first, shall be identified by an MQ–82, and shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(b) *Nonauction sale.* Any nonauction sale of tobacco, except cigar tobacco, which (1) is not identified by an MQ–76 or MQ–77 (including a valid sale memo); and (2) recorded on MQ–79, Dealer's Record, not later than the end of the calendar week in which the tobacco was purchased; or (3) if purchased prior to the opening of the local auction market for the current year, is not identified by an MQ–76 or MQ–77 (including a valid sale memo) and recorded on MQ–79 not later than the end of the calendar week which includes the first day of the local auction markets, shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(c) *Failure to obtain an MQ–77 and sale memo, and failure to record a sale on MQ–76—for cigar tobacco.* Any sale of cigar tobacco for which a dealer (1) if within quota, fails to record the sale on the marketing card issued for the farm, or (2) if the tobacco was produced on a farm for which an excess marketing card was issued, fails to obtain a valid sale memo by the end of the sale date, shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who fails to make the required record.

(d) *Leaf account tobacco.* The part or all of any marketing of leaf account tobacco by a warehouseman which such warehouseman represents to be a leaf account resale, but which when added to prior leaf account resales is in excess of prior leaf account purchases, recognizing and including appropriate adjustments for returned baskets, short baskets and short weights and long baskets and long weights from the Buyers Corrections Account, shall be considered to be a marketing of excess tobacco, unless and until such warehouseman furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The actual quantity of floor sweepings which the State executive director determines has been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco if the amount thereof for the warehouse does not exceed the floor sweepings for the season of 0.02 percent of producer's sales for Fire-cured, Dark air-cured and Virginia sun-cured tobacco. The penalty thereon shall be paid by the warehouseman.

(e) *Dealer's tobacco—(1) Excess resale rule for mixed reporting of data.* If, during any marketing year, a warehouseman or a dealer has transactions in more than one kind of tobacco and his reports of marketings result in excess resales, penalty of such excess resales shall be due from such dealer at the highest rate of penalty applicable to any kind of tobacco reported or due to be reported under these regulations.

(2) *Excess resales above purchases (except cigar tobacco).* The part or all of any marketing of tobacco by a dealer which such dealer represents to be a resale, which, when added to prior resales by such dealer (as shown or due to be shown on Form MQ–79), is in excess of his total prior purchases (as shown or due to be shown on such Form MQ–79) shall be considered to be a marketing of excess tobacco unless and until such dealer furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco, the penalty thereon shall be paid by the dealer.

(f) *Resales not reported.* Any resale of tobacco which is required to be reported by a warehouseman or dealer, but which is not so reported within the time and in the manner required, shall be considered to be a marketing of excess tobacco, unless and until such warehouseman or dealer furnishes a report of such resale, which is acceptable to the State executive director. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(g) *Unrecorded sale of cigar tobacco.* Any sale of cigar tobacco which is not recorded on MQ–79 (CF&B), Buyer's Record Book, by the tenth day of the month next following the month during which the sale date occurred shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who fails to make the record.

(h) *Marketings falsely identified by a person other than the producer.* If any marketing of tobacco by a person other than the producer thereof is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by such person.

(i) *Excess resale rule.* Where an analysis of an auction warehouse or dealer account shows excess resales for the season to be less than 100 pounds, the State executive director may accept the account as being satisfactory and no penalty due on account of excess resales.

(j) *Carryover tobacco (except cigar tobacco).* Any tobacco on hand and reported or due to be reported under § 724.96 for warehousemen and § 724.97 for dealers, shall be included as a resale in determining whether an account has excess resales. Unless the warehouseman furnishes proof acceptable to the State committee and unless the dealer furnishes proof acceptable to the State executive director, showing that such account does not represent excess tobacco, penalty at the full rate shall be paid thereon by such warehousemen or dealer.

§ 724.91 Producer penalties; false identification; failure to account; canceled allotments.

(a) *Penalties for false identification or failure to account.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number acres harvested in the current year in excess of the farm acreage allotment shall be

deemed to have been marketed as excess tobacco from such farm.

(2) If any producer who manufactures tobacco products from tobacco produced by or for him fails to make the reports or makes a false report required under § 724.95(g), he shall be deemed to have failed to account for the disposition of tobacco produced on the farm(s) involved. The filing of a report by a producer under § 724.95(g), which the State committee finds to be incomplete or incorrect, shall constitute a failure to account for the disposition of tobacco produced on the farm.

(b) *Canceled allotment.* If part or all of the tobacco produced on a farm has been marketed, and the allotment for the farm is canceled, any penalty due on the marketings shall be paid by the producer.

(c) *Person to pay penalty when erroneous rate is shown on card.* If an erroneous penalty rate is shown on a marketing card and tobacco is identified by such card, the producer shall remit any additional penalty due for the sale.

§ 724.92 Payment of penalty.

(a) *Date due.* Penalties shall become due at the time the tobacco is marketed, except that (1) in the case of tobacco removed from storage under bond, penalty shall be due on the date of such removal from storage, or (2) in the case of false identification or failure to account for disposition of tobacco, the penalty shall be due on the date of such false identification or failure to account for disposition. The penalty shall be paid by remitting the amount thereof to the State ASCS office not later than the end of the calendar week in which the tobacco becomes subject to penalty, except that for cigar tobacco, the penalty shall be paid not later than the 10th of the calendar month next following the month in which the tobacco becomes subject to penalty. A draft, money order, or check drawn payable to the Agricultural Stabilization and Conservation Service, may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) *Auction sale—net proceeds.* If the penalty due on any auction sale of tobacco by a producer is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producers, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through a warehouse.

(c) *Nonauction sale—converted penalty rate.* Nonauction sales shall be subject to the converted rate of penalty for the farm on which the tobacco was produced and shall be paid in full even though the penalty may exceed the proceeds for the sale of tobacco.

§ 724.93 Request for return of penalty.

Any producer of tobacco and any other person who bore the burden of the payment of any penalty, after the marketing of all tobacco available for marketing from the farm, may request the return of the amount of such penalty which is in excess of the amount required to be paid. Such request shall be filed on MQ–85 with the county ASCS office within 2 years after the payment of the penalty. Approval of return of penalty to producers shall be by the county committee, subject to the approval of the State executive director.

RECORDS AND REPORTS

§ 724.95 Producer's records and reports.

(a) *Report of tobacco acreage.* (1) If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm, the tobacco allotment next established for any such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (i) the filing of, aiding, or acquiescing in the filing of, such report was not intentional on the part of any producer on the farm and that no producer on the farm could reasonably have been expected to know that the report was false provided that the filing of the report will be construed as intentional unless the report is corrected and any additional penalty is paid, or (ii) no person connected with the farm for the year for which the allotment is being established caused, aided, or acquiesced in the filing of the false acreage report.

(2) If a farm operator files a certification of tobacco acreage on the farm and, after a farm visit and measurement of the acreage, it is determined by the county committee (with approval of the State committee) that the certification was false (either significantly under certification or significantly over certification by more than the tolerance for certification as provided in Part 718 of this chapter) in what amounts to a scheme or device to defeat the purpose of the program, the allotment next established for the farm shall be reduced.

(3) If the conditions in subdivision (i) and (ii) of subparagraph (1) of this paragraph are not applicable, the next established allotment shall be reduced on the basis of pounds computed as follows: The acreage falsely certified (difference between certified and measured acreage) shall, for the year of the violation, be multiplied by the farm's actual yield. Such method of determining the amount of allotment reduction also is provided for in paragraph (i) of this section.

(b) *Report of tobacco grown for experimental purposes.* For farms on which tobacco is being grown for experimental purposes only, the Director of a publicly owned agricultural experiment station shall furnish the State ASCS office, prior to the beginning of the harvesting of tobacco from any farm on which experimental tobacco is being grown, a report showing the following information with respect to each kind of tobacco and farm on which tobacco is grown for experimental purposes only:

(1) Name and address of the publicly owned experiment station;

(2) Name of the owner, and name of the operator if different from the owner, of each farm on which tobacco is grown for experimental purposes only;

(3) The amount of acreage of tobacco grown on each farm for experimental purposes only; and,

(4) A certification signed by the Director of the publicly owned agricultural experiment station to the effect that such acreage of tobacco was grown on each farm for experimental purposes only, the tobacco was grown under his direction, and the acreage on each plot was considered necessary for carrying out the experiment.

(c) *Harvesting second crop tobacco from same acreage.* If, in the same calendar year more than one crop of tobacco was grown from (1) the same tobacco plants, or (2) different tobacco plants, and is harvested from the same acreage of a farm and is marketed, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested.

(d) *Cancellation of new farm allotment.* Any new farm allotment approved under this subpart which was determined by the county committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant shall be canceled by the county committee as of the date the allotment was established. Where incomplete or inaccurate information was unknowingly furnished by the applicant, the allotment shall be canceled effective for the current crop year except where the provisions of § 724.65(d) apply.

(e) *False identification.* If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which, in fact, was produced on a different farm, the acreage allotments next established for both such farms and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) no person on such farm intentionally participated in such marketings or could have reasonably been expected to have prevented such marketings: *Provided,* That, marketing shall be construed as intentional, unless all tobacco from the farm is accounted for and payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in such marketing.

(f) *Report on marketing card.* The operator of each farm on which tobacco is produced shall return to the county ASCS office each marketing card issued for the farm whenever marketings from the farm are completed and, in

no event, later than (1) June 1 of next calendar year after issuance of the card in the case of cigar tobacco, and (2) for all other kinds of tobacco, not later than 30 days, in the year of issuance of the card, after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within 15 days after written request by certified mail from the county executive director shall constitute failure to account for disposition of all tobacco marketed from the farm unless disposition of tobacco marketed from the farm is otherwise accounted for to the satisfaction of the county committee. Upon failure to satisfactorily account to the county committee for disposition of tobacco marketed from the farm the allotment next established for such farm and such kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county committee and a representative of the State committee that the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided,* That such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such proof. As to each MQ–77 issued for any kind of tobacco, at the time the marketing card is returned to the county ASCS office, there shall be shown on each card the quantity of tobacco on hand, if any, including the crop year it was produced and its location. The card shall be signed by the farm operator. As to each MQ–76 for cigar tobacco, at the time the marketing card is returned to the county ASCS office, the Record of Sales form on the card shall be signed by the farm operator.

(g) *Reports by producer-manufacturers.* (1) Each producer who manufactures tobacco products from tobacco produced by or for him as a producer shall report, as to each farm on which such tobacco is produced, to the State ASCS office as follows with respect to such tobacco.

(i) If the harvested acreage is within the allotment, the producer-manufacturer shall furnish the State ASCS office a report, as soon as all the tobacco from the farm has been weighed, showing the total pounds of tobacco produced, the date(s) on which such tobacco was weighed, the farm serial number of the farm on which it was produced, and the estimated value of such tobacco.

(ii) If the harvested acreage is in excess of the allotment, the producer-manufacturer shall furnish the State ASCS office a report as soon as all the tobacco from the farm has been weighed, showing the total pounds of tobacco produced on the farm, the date(s) on which the tobacco was weighed, the farm serial number of the farm on which it was produced, the estimated value of the tobacco, and the location of the tobacco. If the required reports are not made, penalty shall be paid on the tobacco by the producer-manufacturer, at the converted rate of penalty shown on the marketing card issued for the farm, when it is moved from the place where it can be conveniently inspected by the county committee at any time separate and apart from any other tobacco.

(2) If the producer-manufacturer has excess tobacco and does not pay the penalty thereon at the converted rate of penalty shown on the marketing card, he shall notify in writing the buyer of the manufactured product or the buyer of any residue resulting from processing the tobacco, at time of sale of such product or residue, of the precise amount of penalty due on such manufactured product or residue. In such event, the producer-manufacturer shall immediately notify the State executive director and shall account for the disposition of such tobacco by furnishing the State executive director a report on a form to be furnished by him, showing the name and address of the buyer of the manufactured products or residue, a detailed account of the disposition of such tobacco and the exact amounts of penalty due with respect to each such sale of such products or residue, together with copies of the written notice of the exact amounts of the penalty due given to the buyer of such products or residue. Failure to file such report, or the filing of a report which is found by the State committee to be incomplete or incorrect, shall be considered failure of the producer-manufacturer to account for the disposition of tobacco produced on the farm and the allotment next established for the farm shall be reduced for such failure, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees, that (i) the failure to furnish such report of disposition was unintentional and the producer-manufacturer on such farm could not reasonably have been expected to furnish such report of disposition: *Provided,* That such failure will be construed as intentional unless such report of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such report. The producer-manufacturer shall be liable for the payment of penalty.

(h) *Report of production and disposition.* In addition to any other reports which may be required by this subpart, the operator on each farm, or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall, upon written request by certified mail from the State executive director within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108, Report of Production and Disposition, a written report of the acreage production and disposition of all tobacco produced on the farm by sending the same to the State ASCS office showing, as to the farm at the time of filing such report, (1) the number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage of tobacco harvested from the farm, (2) the total pounds of tobacco produced, (3) the amount of tobacco on hand and its location, (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed, the gross price and the date of the marketing, and (5) complete details as to any tobacco disposed of other than by sale. Failure to file the MQ–108, as requested, the filing of a false MQ–108, or the filing of an MQ–108 which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (i) the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided,* That such failure will be construed as international and unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such proof.

(i) *Amount of allotment reduction.* The amount of reduction in the allotment for the current year for a violation described in paragraphs (a), (e), (f), (g), or (h) of this section shall be that percentage which the amount of tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred. Where the violation equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent. The quantity of tobacco determined by the county committee to have been falsely identified, or produced on acreage falsely omitted from an acreage report as filed, or for which the county committee determines that proof of disposition has not been furnished, shall be considered as the amount of tobacco involved in the violation. If the actual quantity of tobacco falsely identified, or produced on acreage falsely omitted from an acreage report, or for which proof of disposition has not been furnished is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If (1) the actual quantity of tobacco produced on acreage falsely omitted from an acreage report, or for

which proof of disposition has not been furnished is not known, or (2) if the actual total production of tobacco on the farm is not known, the county committee shall determine such actual quantity or such total production and the farm marketing quota in the following manner. The yield per acre and the total production of tobacco on the farm shall be determined by taking into consideration the condition of the tobacco crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided*, That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting production of tobacco are similar. The yield per acre and the total production of tobacco for the farm as so determined by the county committee shall be deemed to be the actual yield per acre and the actual total production of tobacco for the farm. The actual yield per acre of tobacco on the farm as so determined by the county committee multiplied by the farm acreage allotment shall be deemed to be the actual production of the acreage allotment and the farm marketing quota. Where the actual quantity of tobacco for which proof of disposition has not been furnished is not known, such quantity shall be determined by the county committee to be the quantity of tobacco remaining after deducting from the total production of tobacco on the farm determined as aforesaid, the quantity of tobacco for which proof of disposition has been furnished. Where the actual quantity of tobacco produced on acreage falsely omitted from an acreage report is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid by the acreage falsely omitted from the acreage report as filed. Where it is determined by the county committee, under paragraph (a) of this section, that a producer on a farm intentionally caused an incorrect tobacco acreage determination the amount of reduction in the allotment for the current year shall be that acreage determined by subtracting the allotment for the year of violation from the finally determined acreage for such year and using the production thereon as the amount of tobacco involved in the violation.

(j) *Allotment reduction for combined farms.* If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied as heretofore provided in this section to that portion of the allotment for which a reduction is required.

(k) *Allotment reduction for divided farms.* If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied as heretofore provided in this section to the allotments for the divided farms required to be reduced.

(l) *County administrative hearings in connection with violations.* Except for the failure to return a marketing card to the county office, the allotment for any farm shall not be reduced for a violation under this section until after the operator of the farm has been notified in writing by the county executive director of the time and place of a hearing to determine the nature and extent of the violation. The notice of the hearing shall request the farm operator to bring to the hearing warehouse bills (floor sheets) and other relevant supporting documents. At least two members of the county committee shall be present at the hearing. The hearing shall be held at the time and place named in this notice and any action taken on the violation shall be taken after the hearing. If the farm operator does not attend the hearing, or is not represented, the county committee may take whatever action it deems proper.

§ 724.96 Warehouseman's records and reports.

(a) *Record of marketing*—(1) *Auction sale.* Each warehouseman shall keep such records as will enable him to furnish the State ASCS office with respect to each auction sale and for each kind of tobacco made at his warehouse the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller, in the case of a sale by a producer, and in the case of a resale, the name of the seller.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s); and, in addition, with respect to each individual basket or lot of tobacco constituting the auction sale, the following information:

(*a*) Name of purchaser.

(*b*) Number of pounds sold.

(2) *Record for separate accounts.* Records of all purchases and resales of tobacco by the Warehouseman shall be maintained to show a separate account for:

(i) Nonauction sales by farmers of tobacco purchased by or on behalf of the warehouseman.

(ii) Purchases and resales of leaf account tobacco.

(iii) Resales of floor sweepings.

(3) *Buyers corrections account.* Each warehouseman shall keep such records as will enable him to furnish the State ASCS office on Form MQ–71, Summary of Buyers Corrections Account, the total pounds of the debits (for returned baskets, short baskets and short weights of tobacco) and credits (for long baskets and long weights of tobacco) to the Buyers Corrections Account. Where the warehouseman returns to the seller tobacco debited to the Buyers Corrections Account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the Buyers Corrections Account and a corresponding purchase (debit entry) in the case of a dealer on his MQ–79, Dealer's Record. If an auction warehouse maintains a daily summary of bill-outs, the balancing figure reflected thereon, if any, shall not be included in the Buyers Corrections Account.

(4) *Scrap tobacco acquired from grading producer's tobacco.* Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the State ASCS office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(5) *Scrap tobacco acquired from furnishing producers curing and stripping space.* Any warehouseman or any other person who provides tobacco curing space or stripping space for farmers shall maintain records which will enable him to furnish the State ASCS office the name of the farm operator and the approximate amount of scrap tobacco obtained from each farm resulting from providing such space.

(6) *Resales.* In the case of resales for dealers, the name of the dealer making each resale, and in the case of resale for the warehouse, the name of the applicable warehouse account shall be shown on the warehouse records so that the individual lots of tobacco sold can be identified, and the word "Resale" shall be clearly shown on each warehouse bill (floor sheet) covering such tobacco.

(b) *Identification of producer sales of tobacco*—(1) *Floor sheet.* The serial number of the Form MQ–76 or MQ–77 on which tobacco is to be marketed at auction shall be recorded by the warehouseman on his office copy of the warehouse bill (floor sheet) prior to the time the tobacco is offered for sale. The letters "NA" shall be shown on each line of warehouse bill (floor sheet) on which there is recorded tobacco purchased by or for the warehouse at nonauction sale and there shall be recorded on all such warehouse bills (floor sheets) the serial number of the Form MQ–76 or Form MQ–77 on which the tobacco is marketed at the time the tobacco is purchased at nonauction sale. A copy of the warehouse bill (floor sheet) bearing the letters "NA" shall be furnished the producer for any lot or basket of such tobacco purchased by the warehouseman.

(2) *Check register.* The serial number of the warehouse bill (floor sheet) shall be recorded by the warehouseman on the check register or check stub for the check written covering an auction sale of tobacco by a producer.

(3) *Marketing card entries.* The serial number of the warehouse bill (floor sheet) shall be recorded on the inside of the marketing card by the marketing recorder or warehouseman for each sale of tobacco by a producer.

(c) *Sale memo and bill of nonauction sale.* A record of sales (1) on MQ–76 and (2) on MQ–77 or MQ–82, Sale Without Marketing Card (including sale

memo from MQ–77 or MQ–82), shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through a warehouse and each nonauction sale of tobacco purchased by or for the warehouseman including scrap tobacco obtained as result of providing curing space or stripping space for farmers. Each MQ–76 and MQ–77 (including sale memo) shall be executed as follows:

(i) *Auction sale.* An auction sale identified by MQ–76 shall show in the spaces provided therefor, the bill (floor sheet) number, checkmark to show the sale was by auction, a checkmark to show nonauction for purchases identified "NA" on the warehouse bill (floor sheet), pounds sold, name and address of warehouse, and date of sale. In addition, each sale memo issued from MQ–77 to cover an auction sale shall show on the first page thereof in all of the spaces provided therefor, the warehouse bill number, pounds sold, amount of penalty due, name and address of warehouse, and date of sale.

(ii) *Nonauction sale to a warehouseman who does not prepare a warehouse bill (floor sheet).* An MQ–76 used to cover a nonauction sale of tobacco to a warehouseman who does not prepare a warehouse bill to cover the sale shall show, a checkmark to indicate sale was by nonauction, pounds sold, name and address of the warehouse, and date of sale. When an MQ–77 is required to be used under this subparagraph a sale memo shall be executed, including the signature of the producer on the reverse side.

(iii) *Nonauction sale to a warehouseman who prepares a warehouse bill (floor sheet).* (*a*) Where a warehouseman purchases all the delivery of a producer's tobacco at a nonauction sale and prepares a warehouse bill to cover the purchase, on MQ–76 there shall be shown the bill number, checkmark to show nonauction purchases, pounds sold, name and address of warehouse, and date of sale. When an MQ–77 is required to be used under this subparagraph, a sale memo shall be executed, including the signature of the producer on the reverse side.

(*b*) Where a warehouseman purchases at nonauction sale part of a delivery of tobacco by a producer and the remainder of the tobacco is sold at auction and such tobacco is identified by an MQ–76 the Record of Sales shall be completed to show the warehouse bill number, checkmark under both auction and nonauction, and the total number of pounds covered by the entire delivery under "Lbs. Sold", the name and address of the warehouse and date of sale. If the sale is identified by an MQ–77, the sale memo (front) shall be completed to show the warehouse bill number, the total number of pounds covered by the entire delivery under "Lbs. Sold", the amount of penalty due, name and address of the warehouse, and date of sale. In addition the reverse side of the sale memo shall show the number of pounds sold at nonauction.

(d) *Suspended sale record.* Any warehouse bills covering first marketing of farm tobacco which have not been identified by valid MQ–76 or MQ–77 at the end of the sale day shall be presented to a market recorder who shall stamp such bills "Suspended" and write thereon the serial number of the suspended sale, and record the bills on MQ–80 Daily Auction Warehouse Report: *Provided,* That if a marketing recorder is not available, the auction warehouse may stamp such bills "Suspended" and deliver them to a marketing recorder when one is available.

(e) *Warehouseman's entries on dealer's record.* Each warehouseman shall record, or have the dealer record, on MQ–79 the total purchases and resales made by each such dealer or other warehouseman during each sale day at a warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to the current crop, entry on MQ–79 shall clearly show such fact.

(f) *Record and report of purchases and resales.* Each warehouseman shall keep a record and make reports on MQ–79, Dealer's Record, showing:

(1) All nonauction purchases of tobacco except nonauction purchases for which a warehouseman prepares a floor sheet.

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

(4) Resales of floor sweepings separately from leaf account tobacco. MQ–79 shall be prepared and a copy forwarded to the State ASCS office not later than the end of the calendar week in which such tobacco was purchased or resold: *Provided,* That if tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale day of the local auction markets. A remittance for all penalties shown by the entries on MQ–79 and on the sale memos to be due, shall be forwarded to the State ASCS office with the original copy of MQ–79.

(g) *Daily report of auction warehouse business.* Each warehouseman shall prepare and promptly forward at the end of each sale day to the State ASCS office a report on MQ–80, Daily Auction Warehouse Report, showing for each sale day, unless otherwise stated below:

(1) For each dealer or buyer as originally billed, the total pounds of tobacco purchased at auction and resales at auction on the warehouse floor.

(2) For any association as originally billed, the total pounds and gross amount of loan tobacco acquired at auction, and resales at auction, if any, on the warehouse floor.

(3) (i) The total pounds of leaf account purchases at auction on the warehouseman's own floor, (ii) the total pounds of leaf account purchases at nonauction sale for which a floor sheet is prepared, and (iii) the total pounds of all leaf account resales at auction on the warehouseman's own floor, including resales of tobacco from the warehouseman's buyers corrections account.

(4) The total pounds of all resales at auction on the warehouseman's own floor of floor sweepings which accumulated on the warehouseman's own floor.

(5) The sum of the totals for subparagraphs (1), (2), (3), and (4) of this paragraph.

(6) The computed total of first sales at auction on the warehouse floor.

(7) (i) The warehouse gross sale pounds for the day, as billed to buyers (sum of subparagraphs (1), (2), and (3) of this paragraph), (ii) the pounds on warehouse check register if shown thereon, and (iii) the total pounds of the resales (sum of subparagraphs (1), (2), (3), and (4) of this paragraph).

(8) On the report for the last sale day for the season, the pounds of all tobacco on hand whether such tobacco represents leaf account tobacco or floor sweepings which accumulated on the warehouseman's own floor.

(9) For each warehouse sale of excess tobacco from a farm, the applicable sale memo and numbers thereof with remittance of the penalty due as shown thereon.

(10) As to the information required to be entered on MQ–80, Daily Auction Warehouse Report, by the marketing recorder, the warehouseman shall keep and make available such records as will enable the marketing recorder to enter thereon: (i) For each sale identified by an MQ–76 or MQ–77 (including sale memo) or MQ–82, Sale Without Marketing Card, the pounds sold; (ii) for each sale suspended, the warehouse bill(s) number and pounds sold; and (iii) for each sale cleared from suspension, the MQ–76 number or for MQ–77 or MQ–82 the sale memo number, and the date of clearance.

(11) Where a producer rejects the sale of a basket of tobacco, and the tobacco has been billed out and the bills presented to the buyer, the warehouseman shall not change the (i) marketing card, or (ii) the MQ–80 reporting the sale. If the warehouseman gains possession of the tobacco and it is resold by such warehouseman, it shall be identified as resale tobacco.

(12) In balancing first sales (represented by marketing recorder's total) with computed first sales (bill-out total minus resales as reported by the warehouseman) the State executive director is authorized to approve reports with variance not to exceed one-half of 1 percent of such pounds.

(13) At the end of the season, each warehouseman shall, for each kind of tobacco: (i) Report on his final MQ–80 for the season the quantity of leaf account tobacco and floor sweeping tobacco, if any, on hand and its location, and (ii) permit its inspection and weighing by a representative of ASCS, and furnish him at that time a certification as to the actual weight of such tobacco. After the

weight of such tobacco has been so obtained in this subdivision (ii), it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due. Separate data shall be reported for floor sweeping tobacco.

(h) *Daily report of data from buyers corrections account.* For Fire-cured, Dark air-cured, and Virginia sun-cured tobacco, each warehouseman shall keep a record and make reports on MQ–71, Summary of Buyers Corrections Account, showing for each sale day and for each buyer the total pounds of debits for the warehouse for short baskets, short weights, and returned baskets and the total pounds of credits for the warehouse for long baskets and long weights, as shown by the buyers corrections account, excluding billing errors, kept by the warehouseman.

(i) *Producer tobacco.* Producer tobacco (first sale) in possession of a warehouseman, resulting from long weights and long baskets, which has not previously been identified by a sale shall be recorded and reported in the same manner as a nonauction sale to a warehouseman who does not prepare a warehouse bill (floor sheet) and shall be reported on MQ–79, Dealer's Record.

§ 724.97 Dealer's record and reports, excluding cigar tobacco buyers.

Each dealer, except as provided in § 724.98, or any other person as provided in paragraph (e) of this section, shall keep by kinds of tobacco the records and make the reports as provided by this section.

(a) *Report of dealer's name and address.* Each dealer shall properly execute and the marketing recorder shall detach and forward to the State ASCS office "Receipt for Dealer's Record" contained in MQ–79, which is issued to the dealer.

(b) *Record of marketing.* Each dealer shall keep such records as will enable him to furnish the State ASCS office with respect to each lot of tobacco purchased by him the following information:

(1) (i) The name of the warehouse through which the tobacco was purchased in the case of an auction sale, (ii) the name of the operator of the farm on which the tobacco was produced, and the name of the seller in the case of a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller in the case of nonauction purchases from warehousemen and dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer and as to each lot of tobacco sold by him the following information:

(i) Name of the warehouse through which the tobacco was sold in the case of a warehouse sale, and the name of the purchaser if other than an auction warehouse sale.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to the current crop, the fact that such tobacco was so bought and carried over.

(c) *Nonauction sale (country purchase) to a dealer.* Each purchase of tobacco by a dealer from a producer other than through an auction sale, including farm scrap tobacco obtained from grading tobacco for farmers or as a result of furnishing farmers curing space or stripping space, shall be identified by an MQ–76 or MQ–77 (including a sale memo from the marketing card) issued for the farm on which the tobacco was produced. The producer's signature shall be obtained on the bill of nonauction sale on the reverse side of a sale memo from an MQ–77. Any sale of producer's tobacco which is not identified by a marketing card (MQ–76 or MQ–77) shall be identified by an MQ–82 executed by a marketing recorder or other representative of the State executive director. The dealer shall record or have a marketing recorder record each purchase of nonauction tobacco made by him on Form MQ–79, Dealers' Record.

(d) *Record and report of purchases and resales.* (1) Except as provided in subparagraph (2) of this paragraph, each dealer shall keep a record and make reports on MQ–79, showing all purchases and resales of tobacco made by or for the dealer, and in the event of purchase or resale of tobacco bought from a crop produced prior to the current crop, the fact that such tobacco was bought by him and carried over from a crop produced prior to the current crop.

(2) MQ–79 shall be prepared and a copy forwarded to the State ASCS office not later than the end of the calendar week in which such tobacco was purchased or resold, including the original copy of any spoiled reports, except as follows: (i) If tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale day of the local auction markets; (ii) if tobacco is resold in a State other than where produced and the auction markets at such location open earlier than those where the tobacco would normally be sold at auction by farmers, reports shall be prepared and forwarded not later than the end of the calendar week which would include the first sale day of the local auction market where the resale takes place.

(e) *Daily report to warehouseman for buyers corrections account of tobacco received.* Notwithstanding the provisions of § 724.98, any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman shall furnish the warehouseman on a daily sales basis an invoice or an adjustment invoice correctly setting forth the pounds for which he has not been invoiced or for which he has been invoiced incorrectly. Such reports shall be furnished daily, if practicable, otherwise they shall be furnished at the end of each week.

(f) *Final report for season.* Not later than April 1, each dealer who bought, sold, or had tobacco available for marketing during the current marketing year, shall for each kind of tobacco (i) Show the word "final" on his final report, MQ–79 for the season, (ii) report on such final MQ–79 for the season the quantity of tobacco on hand and its location, and (iii) permit its inspection and weighing by a representative of ASCS, and at that time furnish him a certification as to the actual weight of such tobacco. After the weight of such tobacco has been so determined in subdivision (iii) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

(g) *Delayed reports.* Notwithstanding the provision of paragraph (f) of this section, any dealer having tobacco transactions after April 1 shall make reports on MQ–79 at the end of each week as provided in paragraph (d)(2) of this section.

§ 724.98 Dealers exempt from regular records and reports, excluding cigar tobacco buyers.

Any dealer or buyer who acquires tobacco only at an auction sale and resells in the form in which tobacco ordinarily is sold by farmers, 5 percent or less of any such tobacco shall not be subject to the provisions of § 724.97: *Provided*, That where deemed necessary the Director, Commodity Stabilization Division, or the State committee may require a report of all tobacco purchased by the dealer without regard to the 5-percent exemption. Any dealer or buyer is required to report on MQ–79 nonauction purchases from producers and nonauction purchases from other sources.

§ 724.99 Cigar tobacco buyer's records and reports.

(a) *Report of buyer's name and address.* Each buyer shall properly execute, detach, and promptly forward to the State ASCS office, "Receipt for Buyer's Record" contained in MQ–79 (CF&B), which is issued to the buyer.

(b) *Record of marketing.* (1) Each buyer, as to each kind of tobacco, shall keep such records as will enable him to furnish the State ASCS office with respect to each sale of tobacco made by producers to such buyer, including tobacco obtained under subparagraph (2) of this paragraph, the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name and address of the seller, in the case of a sale by a person other than the farm operator;

(ii) Date of sale;

(iii) The serial number of the MQ–76 marketing card, or sale memo from an MQ–77, used to identify the sale;

(iv) Number of pounds sold, and

(v) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer.

(2) Any buyer or any other person who grades tobacco for farmers, or who furnishes farmers curing space or stripping space, shall maintain records which will enable him to furnish the State ASCS office the name of the farm operator and the amount of each grade of tobacco obtained from each farm from furnishing such services.

(c) *Identification of sale or marketing card, sale memo, and buyers record.* Each MQ–76 and each sale memo from an MQ–77 used to identify each sale of tobacco by a producer, including tobacco obtained under paragraph (b)(2) of this section, shall be properly executed by the buyer. The serial number of the MQ–76 marketing card or sale memo from an MQ–77 to identify such tobacco, shall be recorded on the buyer's copy of the MQ–79 (CF&B) and on the check register or check stub for the check written with respect to such tobacco.

(d) *Record and report of purchases of tobacco from producers.* (1) Each buyer shall keep a record and make reports on MQ–79 (CF&B), Buyer's Record, showing by kinds all tobacco purchased by or for him from producers, including tobacco obtained under paragraph (b)(2) of this section. Such record and report shall show for each sale the sale date, the name of the farm operator (and the name and address of the person selling the tobacco if other than the farm operator), the serial number of the within quota marketing card (MQ–76), and from each excess card (MQ–77) the sale memo number used to identify the sale, the pounds of tobacco represented in the sale, the rate of penalty shown on the sale memo (MQ–77), and the amount of penalty. If no marketing card is presented by the producer, the buyer shall record and report the purchase as provided above except that the buyer shall enter the word "None" in the space for the serial number of the marketing card (MQ–76) or sale memo (MQ–77), the applicable rate of penalty per pound shown in § 724.88 in the space for rate of penalty, and shall show the name and address of the seller in the space for the seller's name.

(2) The original of MQ–79 (CF&B), excess sale memos (MQ–77), and a remittance for all penalties shown by the entries on MQ–79 (CF&B) and on the excess sale memos (MQ–77) to be due shall be forwarded to the State ASCS office not later than the 10th day of the calendar month next following the month during which the sale date occurred.

(e) *Record of buyer's disposition of cigar tobacco.* Each buyer shall maintain records which will show, by kinds of tobacco, the disposition made by him of all tobacco purchased by or for him from producers, including tobacco obtained under paragraph (b)(2) of this section.

§ 724.100 Cigar tobacco buyers and loan organizations not exempt from regular records and reports.

No buyer shall be exempt from keeping records and making the reports required in this part. Any "loan" organization which receives tobacco from producers for the purpose of (a) selling it for the producer or (b) placing it under the Commodity Credit Corporation price support program shall keep the records, make the reports, and remit penalties in case of receiving such tobacco for sale.

§ 724.101 Records and reports of truckers and persons redrying, prizing, or stemming tobacco.

(a) Each trucker shall keep such records, by kinds of tobacco, as will enable him to furnish the State ASCS office a report with respect to each lot of tobacco received by him showing:

(1) The name and address of the producer;

(2) The date of receipt of the tobacco;

(3) The number of pounds received; and

(4) The name and address of the person to whom it was delivered.

(b) Each person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep, by kinds of tobacco, such records as will enable him to furnish the Director a report showing:

(1) The information required above for truckers; and, in addition,

(2) The purpose for which the tobacco was received;

(3) The amount of advance made by him on the tobacco;

(4) The disposition of the tobacco; and

(5) Person to whom delivered and pounds involved.

§ 724.102 Separate records and reports from persons engaged in more than one business.

Any person who is required to keep any record or make any report as a warehouseman, processor, dealer, buyer, trucker, or as a person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 724.103 Failure to keep records and make reports or making false report or record.

(a) *Failure to keep records or make reports.* Under the provisions of section 373(a) of the act, any warehouseman, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers who fail to make any report or keep any record as required, or who makes a false report or record, is guilty of misdemeanor, and upon conviction thereof shall be subject to a fine of not more than $500 for each offense. In addition, any tobacco warehouseman, dealer, or buyer who fails, upon being requested to do so, to remedy a violation(s) by submitting complete reports and keeping accurate records shall be subject to an additional fine not to exceed $5,000.

(b) *False representations—Warehousemen, dealers, and producers.* The penalties designated in paragraph (a) of this section are in addition to penalties prescribed by other criminal statutes including United States Code, title 18, section 1001, which provides for a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, for a person convicted of knowingly and willingly committing such acts as making a false certification on a new farm application or application for transfer of an allotment, false acreage report, altering a marketing card, falsely identifying tobacco or filing a false dealer or warehouse report.

(c) *Failure to obtain producer's marketing card or sale memo.* The failure of any dealer or warehouseman to obtain a producer's marketing card, MQ–76 or MQ–77, to identify a sale of producer tobacco or who fails to obtain and deliver to a representative of the county ASC committee a properly executed sale memo to cover a sale of producer tobacco identified by an MQ–77 shall constitute a failure to make a report.

§ 724.104 Examination of records and reports.

(a) *Examination.* For the purpose of ascertaining the correctness of any report made or record kept or of obtaining information required to be furnished in any report but not so furnished, any warehouseman, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing or otherwise processing tobacco for producers, shall make available at one place for examination by representatives of the State executive director and by employees of the Office of the Inspector General and of the Commodity Stabilization Division, and Tobacco Division of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, upon written request by the State executive director all such books, papers, records, basket tickets, floor sheets, buyer adjustment invoices, accounts, canceled checks, check registers, check stubs, correspondence, contracts, documents, and memoranda as the State executive director or the Director has reason to believe are relevant and are within the control of such person.

(b) *Orderly retention of records.* The records and reports required by this subpart including buyer invoices (bill-outs) and basket tickets, shall be kept in an orderly manner by sale day to facilitate examination and verification.

§ 724.105 Length of time records and reports are to be kept.

Records required to be kept and copies of the reports required to be made by any person under this subpart shall be on a marketing year basis and shall be retained by him for 3 years after the end of the marketing year. Records shall be kept for such longer period of time as may be requested in writing by the State executive director or the Director.

§ 724.106 Information confidential.

All data reported to or acquired by the Secretary pursuant to this subpart shall be kept confidential by all officers and employees of the U.S. Department of Agriculture, by all members of county and community committees, and all county ASCS office employees, and only such data so reported or acquired, as the Deputy Administrator deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under title III of the act.

RESTRICTION ON USE OF DDT AND TDE

§ 724.110 Determination of use of DDT and TDE.

(a) *Definition.* DDT means a pesticide bearing the chemical, or a mixture of 1,1,1-trichloro-2,2 bis (p-chlorophenyl) ethane and 1,1,1-trichloro-2 (o-chlorophenyl)-2-(p-chlorophenyl) ethane. TDE means a pesticide bearing the chemical or a mixture of 1,1-dichloro-2,2-bis (p-chlorophenyl) ethane. In addition, DDT or TDE shall include any products containing derivatives of such pesticides.

(b) *Producer's report.* For each farm on which Fire-cured (type 21), Fire-cured (types 22, 23, and 24), Dark air-cured (types 35 and 36), Virginia sun-cured (type 37), Cigar-binder (types 51 and 52), or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco is produced, the farm operator or any producer on the farm shall for each year file with the county ASCS office a report on MQ–38, Certification of Use or Nonuse of DDT or TDE on Tobacco, showing whether or not DDT or TDE was used on the tobacco in the field or after being harvested.

(c) *Failure to file report.* If the operator of a farm on which any of the kinds of tobacco cited in paragraph (b) of this section fails or refuses, within 7 days after a request of the county committee to file a report on MQ–38, Certification of Use or Nonuse of DDT or TDE on Tobacco, showing whether or not DDT or TDE was used on the tobacco, all the tobacco of such kind and crop produced on such farm for which he failed or refused to certify on MQ–38 shall be considered by the county committee to have been subjected to such a pesticide unless the county committee finds that failure to file the report was due to circumstances beyond the control of the farm operator.

(d) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from the farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on MQ–38, (2) failure to file MQ–38 or (3) other probative evidence that such pesticides were used on the tobacco. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(e) *Producer's right to recertify.* Any producer on a farm who certified on MQ–38 that the tobacco on the farm was subjected to DDT or TDE when in fact no such pesticides were used, may make a new certification of the facts on another MQ–38.

(f) *Issuance of marketing card.* An MQ–77 (ineligible for price support) shall be issued to identify tobacco available for marketing from a farm on which DDT or TDE was used.

Effective date: Date of publication of this document in the FEDERAL REGISTER (2–5–72).

Signed at Washington, D.C., on January 31, 1972.

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

[FR Doc.72–1758 Filed 2–4–72;8:50 am]

PART 729—PEANUTS

Subpart—1972 Crop of Peanuts; Acreage Allotments and Marketing Quotas

NATIONAL MARKETING QUOTA REFERENDUM RESULT

Section 729.105 announces the results of the referendum held during the period December 6–10, 1971, pursuant to section 358(b) of the Agricultural Adjustment Act of 1938, as amended, to determine whether farmers favor or oppose marketing quotas for peanuts produced in the calendar years 1972, 1973, and 1974. Since the only purpose of this proclamation is to announce the results of the referendum, it is found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary. Accordingly, § 729.105 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 729.105 Proclamation of the results of the marketing quota referendum for the peanut crops produced in the 3 calendar years 1972, 1973, and 1974.

In a referendum of farmers engaged in the production of 1971 crop peanuts, held during the period December 6–10, 1971, 43,641 farmers voted. Of those voting 42,503 farmers, or 97.4 percent, favored marketing quotas for peanuts produced in the 3 calendar years 1972, 1973, and 1974 and 1,138 farmers, or 2.6 percent opposed quotas for peanuts produced in each of such 3 calendar years. Since more than two-thirds of the farmers voting favored quotas, the national marketing quota of 1,634,150 tons proclaimed by the Secretary of Agriculture for peanuts produced in the calendar year 1972 (36 F.R. 20881) shall be in effect. National marketing quotas proclaimed hereafter for peanuts for the calendar years 1973 and 1974 shall be effective.

(Secs. 358, 375, 52 Stat. 66, as amended; 55 Stat. 88, as amended; 7 U.S.C. 1358, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on January 31, 1972.

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

[FR Doc.72–1728 Filed 2–4–72;8:47 am]

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

[Amdt. 10]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Container, Pack, and Container Marking Regulations

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation on the handling of Texas citrus fruits, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations of the Texas Valley Citrus Committee reflect its appraisal of the need for restricting the use of containers and pack sizes to those most suitable for the packing and handling of fruit to promote orderly marketing, so as to provide consumers with good quality fruit and maximize returns to producers pursuant to the declared policy of the act. The amendment expands, by two-sixteenth inch, the diameter range for each of the pack sizes for oranges of Navel and Valencia and similar late type varieties, but restricts the diameter ranges within each of the individual pack sizes for individual containers. Expansion of the diameter ranges for each of these pack sizes for these two varieties of oranges is necessary because occasionally these varieties tend to be elongated. This elongation results in the cartons being overfilled, which causes extensive damage, brusing, and crushing of the fruit. The limitation of the diameter ranges within each of the pack sizes for individual containers is intended to maintain uniformity of size within such containers.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until

30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (i) the handling of fruit is now in progress and to be of maximum benefit the provisions of this amendment should be effective upon the date hereinafter specified, (ii) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto, (iii) this amendment was recommended by members of the Texas Valley Citrus Committee in a open meeting at which all interested persons were afforded opportunity to submit their views, and (iv) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient.

(4) It is hereby found that the amendment hereinafter set forth is in accordance with the provisions of said marketing agreement and order, and will tend to effectuate the declared policy of the act.

Order. Therefore, effective for the period February 7 through March 6, 1972, the provisions of paragraph (a)(2)(i) of § 906.340 (7 CFR 906.340; 36 F.R. 143; 5962; 7049; 14253; 20029) are amended by adding 2 provisos to subdivision (i) *Oranges,* of subparagraph (2) *Pack regulations,* reading as follows:

§ 906.340 **Container, pack, and container marking regulations.**

(a) * * *

(2) * * *

(i) * * *: *Provided,* That Navel oranges and Valencia and similar late type oranges when place packed in any box or carton shall be sized in accordance with the sizes set forth in the following table and otherwise meet the requirements of standard pack; and when in containers not packed according to a definite pattern shall be sized in accordance with the sizes set forth in the following table and otherwise meet the requirements of standard sizing:

TABLE

Pack sizes	Diameter limits in inches	
	Minimum	Maximum
46	4 3/16	5
54	4	4 13/16
64	3 13/16	4 3/16
70 or 72	3 11/16	4 1/16
80	3 9/16	4 1/16
100	3 5/16	3 13/16
112	3 3/16	3 11/16
125	3 1/16	3 9/16
163	2 13/16	3 3/16
200	2 9/16	3 1/16
252	2 5/16	2 13/16
288	2 4/16	2 9/16
324	2 1/16	2 5/16

Provided further, That the variation from the smallest to the largest fruit in any container is not more than the following applicable amount:

(*a*) 46, 54, 64, 70, or 72, or 80 sizes—not more than eight-sixteenths inch in diameter;

(*b*) 100, 112, or 125 sizes—not more than six-sixteenths inch in diameter;

(*c*) 163 or 200 sizes—not more than five-sixteenths inch in diameter; and

(*d*) 252, 288, or 324 sizes—not more than four-sixteenths inch in diameter.

* * * * *

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

Dated: February 3, 1972.

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

[FR Doc.72-1842 Filed 2-4-72;8:50 am]

[Lemon Reg. 519]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.819 **Lemon Regulation 519.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 1, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period February 6, through February 12, 1972, is hereby fixed at 190,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: February 3, 1972.

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

[FR Doc.72-1759 Filed 2-4-72;8:50 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 214—NONIMMIGRANT CLASSES

Subparagraph (1) *General* of paragraph (j) *Exchange aliens* of § 214.2 *Special requirements for admission, extension, and maintenance of status* is amended by deleting the 11th sentence thereof which reads: "The formal filing with the Service of an application for a waiver of the 2-year foreign-residence requirement under § 212.7(c) of this chapter terminates the nonimmigrant status of the exchange alien and his accompanying spouse and child who have been accorded status under section 101 (a)(15)(J) of the Act as the accompanying spouse and child of such alien."

PART 238—CONTRACTS WITH TRANSPORTATION LINES

The listing of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the following transportation lines in alphabetical sequence: "Norwegian Caribbean Lines" and "Transair Limited—Winnipeg, Manitoba."

PART 332—PRELIMINARY INVESTIGATION OF APPLICANTS FOR NATURALIZATION AND WITNESSES

In § 332.11, the first sentence of paragraph (a) is amended and the second, fourth, and eighth sentences of paragraph (b) are amended. As amended, § 332.11 reads, in part, as follows:

§ 332.11 Investigation preliminary to filing petition for naturalization.

(a) *Scope of investigation.* Whenever practicable, each applicant for naturalization and his witnesses shall appear in person before an officer of the Service authorized to administer oaths or affirmations, prior to the filing of a petition for naturalization, and give testimony under oath or affirmation concerning the applicant's mental and moral qualifications for citizenship, attachment to the principles of the Constitution, and disposition to the good order and happiness of the United States, the qualifications of the witnesses, and the other qualifications to become a naturalized citizen as required by law. * * *

(b) *Conduct of investigation.* The Service officer, prior to the beginning of the investigation, shall make known to the applicant and the witnesses the official capacity in which he is conducting the investigation. The applicant and such witnesses shall be questioned under oath or affirmation separately and apart from one another and apart from the public. The applicant shall be questioned as to each assertion made by him in his application to file a petition and in any supplemental form. Whenever necessary, the written answers in the forms shall be corrected by the officer to conform to the oral statements made under oath or affirmation. The Service officer, in his discretion, may have a stenographic transcript made, or prepare affidavits covering testimony of the applicant or witnesses. The questions to the applicant and the witnesses shall be repeated in different form and elaborated, if necessary, until the officer conducting the investigation is satisfied that the person being questioned fully understands them. At the conclusion of the investigation all corrections made on the application form and supplements thereto shall be consecutively numbered and recorded in the space provided therefor in the applicant's affidavit contained in the form. The affidavit shall then be subscribed and sworn to or affirmed by the applicant and signed by the Service officer. * * *

PART 332d—DESIGNATION OF EMPLOYEES TO ADMINISTER OATHS AND TAKE DEPOSITIONS

Section 332d.1 is amended to read as follows:

§ 332d.1 Designation of employees to administer oaths and take depositions.

All immigration officers and other officers or employees of the Service of an equal or higher grade are hereby designated to administer oaths or affirmations and take depositions in matters relating to the administration of the naturalization and citizenship laws. In addition, such other employees as may be designated by a district director are hereby authorized to administer oaths or affirmations.

PART 334—PETITION FOR NATURALIZATION

The second sentence of § 334.21 *Verification of petition for naturalization; administration of oath* is amended to read as follows: "Any such officer shall administer the required oaths or affirmations to the petitioner and the witnesses."

PART 334a—DECLARATION OF INTENTION

The third sentence of § 334a.1 *Filing and disposition* is amended to read as follows: "The declaration of intention shall be executed under oath or affirmation on Form N–315, in triplicate, before the clerk of any court exercising naturalization jurisdiction or his authorized deputy, regardless of the place of residence of the applicant, and only in the office of said clerk."

PART 339—FUNCTIONS AND DUTIES OF CLERKS OF NATURALIZATION COURTS

Section 339.1 is amended to read as follows:

§ 339.1 Administration of oath to declarations of intention and petitions for naturalization.

It shall be the duty of every clerk of a naturalization court to administer the required oath or affirmation to each applicant for a declaration of intention. The clerk shall receive and file petitions and administer the required oaths or affirmations to each petitioner and the witnesses to each petition, unless such petitioner and witnesses have executed the petition before a designated examiner.

PART 341—CERTIFICATES OF CITIZENSHIP

The last sentence of paragraph (e) *Conduct of examination* of § 341.2 *Examination upon application* is amended to read as follows: "The affidavit shall then be signed and sworn to or affirmed by the claimant or the acting parent or guardian; and the remainder of the affidavit completed and signed by the assigned officer."

PART 342—ADMINISTRATIVE CANCELLATION OF CERTIFICATES, DOCUMENTS, OR RECORDS

1. The second sentence of § 342.1 *Notice* is amended to read as follows: "The notice shall contain allegations of the reasons for the proposed action and shall advise the person that he may submit, within 60 days of service of the notice, an answer in writing under oath or affirmation showing cause why the certificate, document, or record should not be canceled, that he may appear in person before a naturalization examiner in support of, or in lieu of his written answer, and that he may have present at that time, without expense to the Government, an attorney or representative qualified under Part 292 of this chapter."

2. Section 342.6 is amended to read as follows:

§ 342.6 Depositions.

Upon good cause shown, the testimony of any witness may be taken by depositions, either orally or upon written interrogatories before a person having authority to administer oaths (affirmations), as may be designated by the naturalization examiner.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER (2–5–72). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendment to § 214.2(j)(1) relates to agency policy; the amendment to § 238.3(b) adds transportation lines to the listing; and the amendments to §§ 332.11, 332d.1, 334.21, 334a.1, 339.1, 341.2(e), 342.1, and 342.6 set forth the Service position relative to an affirmation instead of an oath in naturalization and citizenship cases.

Dated: February 1, 1972.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.72–1741 Filed 2–4–72;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71–WA–16B]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On May 21, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9258) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate 11 area high routes in the United States.

Three of the routes (J933R, J972R, and J975R) have previously been designated. Three additional routes (J971R, J974R, and J976R) have been successfully flight inspected and are being designated in this rule.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable. A recommendation made by the Air Transport Association of America to eliminate turns in the western

portion of J974R is followed herein. Additional changes have been made to reference facilities and waypoint locations along the proposed route to provide improved navigational guidance.

J933R was designated, effective January 6, 1972, in Airspace Docket No. 71–WA–16 (36 F.R. 21586 and 22738) from Dallas, Tex., to Los Angeles, Calif. The portion of this route from Greater Southwest, Tex., to Wichita Falls, Tex., is not compatible with present terminal procedures at Dallas, Tex., contributes to chart clutter, serves no useful purpose and is therefore rescinded in this rule. Since these changes are minor in nature, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 30, 1972, as hereinafter set forth.

1. In § 75.400 (37 F.R. 2400) the following area high routes are added:

Waypoint name	N. Lat./W. Long.	Reference facility
J971R SAN ANTONIO, TEX., TO DALLAS, TEX.		
Henly, Tex	30°14′02″/98°26′56″	Austin, Tex.
Acton, Tex	32°26′04″/97°39′49″	Waco, Tex.
J974R WASHINGTON, D.C., TO LOS ANGELES, CALIF.		
Casanova, Va	38°38′28″/77°51′57″	Gordonsville, Va.
Adolph, W. Va	38°40′45″/80°12′31″	Charleston, W. Va.
Chimney, W. Va	38°38′00″/81°47′11″	Do.
Westport, Ky	38°25′58″/85°36′50″	Louisville, Ky.
Zell, Mo	38°00′54″/90°17′37″	Farmington, Mo.
Irwin, Mo	37°30′10″/94°18′35″	Butler, Mo.
Tangier, Okla	36°32′14″/99°56′38″	Kingfisher, Okla.
Canadian, Tex	36°21′15″/101°48′33″	Amarillo, Tex.
Wagon, N. Mex	36°00′45″/104°41′29″	Las Vegas, N. Mex.
Gallup, N. Mex	35°28′34″/108°52′19″	Gallup, N. Mex.
Drake, Ariz	34°56′54″/112°32′15″	Prescott, Ariz.
Chubbuck, Calif	34°32′20″/114°48′08″	Parker, Calif.
Morrow, Calif	34°02′51″/117°14′54″	Oceanside, Calif.
J976R SEATTLE, WASH., TO MINNEAPOLIS, MINN.		
Bothell, Wash	47°43′56″/122°05′03″	Seattle, Wash.
Coulee, Wash	47°30′42″/119°24′00″	Ephrata, Wash.
Mullan Pass, Idaho	47°27′25″/115°38′42″	Mullan Pass, Idaho.
Eden, Mont	47°21′50″/111°25′15″	Great Falls, Mont.
Moulton, Mont	47°16′24″/109°34′42″	Lewiston, Mont.
Brockway, Mont	46°59′51″/105°50′24″	Miles City, Mont.
Lark, N. Dak	46°29′51″/101°20′11″	Dupree, S. Dak.
Oakes, N. Dak	46°01′58″/98°09′59″	Aberdeen, S. Dak.
Minneapolis, Minn.	45°08′45″/93°22′23″	Minneapolis, Minn.

2. In § 75.400 (37 F.R. 2400) J933R is amended by deleting the first waypoint, "Greater Southwest, Tex. 32°49′10″/97°02′28″ Greater Southwest, Tex."

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

Issued in Washington, D.C., on January 31, 1972.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-1636 Filed 2-4-72;8:45 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter IX—Office of Interstate Land Sales Registration, Department of Housing and Urban Development

[Docket No. R-72-149]

PART 1710—LAND REGISTRATION

Statement of Record; Format and Instructions

Correction

In F.R. Doc. 72-1065 appearing at page 1302 in the issue of Thursday, January 27, 1972, the following changes should be made in § 1710.105:

1. In the third column of page 1310, the subparagraph designated "2." under paragraph D. of Part I. should be undesignated.

2. In the center column of page 1311, subparagraph 1. under paragraph C. of Part IV. should read as follows:

1. Describe general weather conditions of the area.

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 477-72]

PART 9—REMISSION OR MITIGATION OF CIVIL FORFEITURES

Terms and Conditions

The Department of Justice regulations governing remission or mitigation of forfeitures in connection with violations of Federal law deny relief to a claimant of a security or other interest in a seized vehicle or other property if, at the time the claimant's interest was acquired, the violator whose activities led to the seizure had a criminal record or reputation, unless the claimant shows that he had asked the law enforcement agency whether the person had a criminal record or reputation and was told he did not have such record or reputation. This order amends the Department's regulations by eliminating this requirement, contained in 28 CFR 9.5 (d)–(h), that inquiry be made as a condition precedent to relief and makes certain other conforming and clarifying changes in the regulations.

By virtue of the authority vested in me by sections 509 and 510 of Title 28 and section 301 of title 5, United States Code, and Reorganization Plan No. 1 of 1968, Part 9 of chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

1. Section 9.1 is revised to read as follows:

§ 9.1 Purpose and scope.

The following definitions, regulations and criteria are designed to reflect the intent of Congress relative to the remission or mitigation of forfeiture of certain property as set out in section 1618 of title 19, United States Code, and are applicable only to those civil forfeitures which arise under the Contraband Transportation Act, Comprehensive Drug Abuse Prevention and Control Act of 1970, customs laws, Federal Alcohol Administration Act and other laws relating to gambling, firearms, and liquor (except the Indian Liquor Laws), and which are assigned to the supervision of the Criminal Division or the Bureau of Narcotics and Dangerous Drugs by the Attorney General or his duly authorized delegate (§§ 0.55(d), 0.100 of this chapter).

2. Paragraphs (d) and (k) of § 9.2 are revised to read as follows:

§ 9.2 Definitions.

* * * * *

(d) The terms "net equity," "net lien," and "net interest" mean the actual interest a petitioner has in property seized for forfeiture at the time a petition for remission or mitigation of forfeiture is granted by the determining official: *Provided, however,* That in computing a petitioner's actual interest the determining official shall make no allowances for unearned interest, finance charges, dealer's reserve, attorney's fees or other similar charges.

* * * * *

(k) The term "reputation" means repute with a law enforcement agency or among law enforcement officers or in the community generally, including any pertinent neighborhood or other area.

* * * * *

§ 9.4 [Amended]

3. Paragraph (f) of § 9.4 is amended by substituting "21 CFR 316.71–316.81" for "21 CFR 330.1–330.11."

4. Paragraph (c) of § 9.5 is amended by adding a new subparagraph at the end thereof to read as follows and by revoking paragraphs (d) through (h).

§ 9.5 General administrative procedures.

* * * * *

(c) * * *

(3) Establishes that he at no time had any knowledge or reason to believe that the owner had any record or reputation for violating laws of the United States or of any State for related crime.

(d)–(h) [Revoked]

5. Paragraphs (c), (d), and (e) of § 9.6 are revised to read as follows:

§ 9.6 Provisions applicable to particular situations.

* * * * *

(c) Leasing agreements: (1) A person engaged in the business of renting property shall not be excused from establishing compliance with the requirements of § 9.5.

(2) A lessor who leases property on a long term basis with the right to sublease shall not be entitled to remission or mitigation of a forfeiture of such property unless his lessee would be entitled to such relief.

(d) Voluntary bailments: A petitioner who allows another to use his property without cost and who is not in the business of lending money secured by property or of renting property for profit, shall be granted remission or mitigation of forfeiture upon meeting the requirements of § 9.5.

(e) Straw purchase transactions: If a person purchases in his own name property for another who has a record or reputation for related crimes, and if a lienholder knows or has reason to believe that the purchaser of record is not the real purchaser, a petition filed by such a lienholder shall be denied unless the petitioner establishes compliance with the requirements of § 9.5 as to both the purchaser of record and the real purchaser. This rule shall also apply where money is borrowed on the security of property held in the name of the purchaser of record for the real purchaser.

* * * * *

6. Section 9.7 is amended as follows:

a. Paragraph (a) is amended by deleting the words "and in which a complaint for forfeiture has been filed in the District Court."

b. Subparagraphs (1) and (2) of paragraph (c) are revised and paragraph (i) is revised to read as follows:

§ 9.7 Terms and conditions of remission.

(c) * * *

(1) Payment to the petitioner of an amount equal to his net equity if the proceeds are sufficient or the net proceeds otherwise, after deducting from the petitioner's interest an amount equal to the Government's costs and expenses incident to the seizure, forfeiture and sale, including court costs and storage charges, if any;

(2) Payment of such costs and expenses;

* * * * *

(i) Where remission or mitigation is allowed to a person holding a security interest who is thereby eligible to have the property released to such person upon compliance with the terms and conditions of remission or mitigation, the property may nevertheless be retained by the Government for official use by an appropriately designated Department or Agency thereof upon payment by it to such person of an amount equal to such person's net equity, less an amount equal to the Government's costs and expenses incident to the seizure and forfeiture including court costs and storage charges, if any, and upon payment by it to the U.S. Marshal of an amount equal to such costs and expenses.

Dated: January 28, 1972.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.72-1718 Filed 2-4-72;8:46 am]

[Order 476-72]

PART 45—STANDARDS OF CONDUCT

Reporting of Outside Interests; Bureau of Narcotics and Dangerous Drugs

Department of Justice regulations relating to standards of conduct of employees include a requirement that employees occupying certain designated positions report their outside financial interests. This order changes the listing of positions for the Bureau of Narcotics and Dangerous Drugs to reflect recent internal reorganization of the Bureau.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, § 45.735-22(c)(2)(xvii) of Part 45 of Chapter I of Title 28, Code of Federal Regulations is revised as follows:

§ 45.723-22 Reporting of outside interests by persons other than special Government employees.

* * * * *

(c) Statements of employment and financial interests are required of the following:

* * * * *

(2) Employees occupying the following positions:

* * * * *

(xvii) Bureau of Narcotics and Dangerous Drugs:

Deputy Directors.
Chief Counsel.
Chief Inspector.
Controller.
Assistant Directors.
Division Chiefs.
Chief Chemists.
Regional Directors.

* * * * *

Dated: January 28, 1972.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.72-1719 Filed 2-4-72;8:47 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

LISTING OF EMPLOYMENT OPENINGS

This amendment of the Federal Procurement Regulations adds new Subpart 1-12.11 regarding the listing of employment opportunities which is designed to assist returning veterans to find employment. The amendment implements Executive Order 11598 (36 F.R. 11711, June 18, 1971) and the rules and regulations of the Secretary of Labor (41 CFR 50-250, 36 F.R. 18398, September 14, 1971) and provides for the inclusion of a contract clause in contracts and first tier subcontracts which requires contractors and subcontractors to agree that all employment openings will be offered for listing at an appropriate local office of the Federal-State employment service system.

PART 1-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 1-2.2—Solicitation of Bids

Section 1-2.201 is amended to add new paragraph (a)(30), as follows:

§ 1-2.201 Preparation of invitations for bids.

* * * * *

(a) * * *

(30) The following provision regarding the listing of employment openings shall be placed on the face of the invitation for bids or on a cover sheet where contract awards in the amount of $10,000 or more and generating 400 or more man-days of employment may result:

LISTING OF EMPLOYMENT OPENINGS

Bidders and offerors should note that this solicitation includes a provision requiring the listing of employment openings with the local office of the State employment service system where a contract award is for $10,000 or more and will generate 400 or more man-days of employment.

* * * * *

PART 1-7—CONTRACT CLAUSES

The table of contents for Part 1-7 is amended by the addition of the following new entries:

Sec.
1-7.101-36 Listing of employment openings.
1-7.602-11 Listing of employment openings.

Subpart 1-7.1—Fixed-Price Supply Contracts

Section 1-7.101 is amended to add new § 1-7.101-36, as follows:

§ 1-7.101 Clauses.

* * * * *

§ 1-7.101-36 Listing of employment openings.

In accordance with § 1-12.1102-2, insert the clause set forth therein.

Subpart 1-7.6—Fixed-Price Construction Contracts

Section 1-7.602 is amended to add new § 1-7.602-11, as follows:

§ 1-7.602 Additional standardized clauses.

* * * * *

§ 1-7.602-11 Listing of employment openings.

In accordance with § 1-12.1102-2, insert the clause set forth therein.

PART 1-12—LABOR

The table of contents is changed to provide revised and new entries, as follows:

Sec.
1-12.104 [Reserved]

Subpart 1-12.11—Listing of Employment Openings

Sec.
1-12.1100 Scope of subpart.
1-12.1101 General.
1-12.1102 Listing of employment openings.
1-12.1102-1 Policy.
1-12.1102-2 Clause.
1-12.1102-3 Deviations.
1-12.1102-4 Exceptions to listing requirements.
1-12.1102-5 Failure to comply.

AUTHORITY: The provision of this Subpart 1–12.11 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 1–12.1—Basic Labor Policies

§ 1–12.104 [Reserved]

Section 1–12.104 is revised to delete the caption and the text and to provide that the section is reserved.

Subpart 1–12.11 is added, as follows:

Subpart 1–12.11—Listing of Employment Openings

§ 1–12.1100 Scope of subpart.

This subpart sets forth policies and procedures regarding manpower requirements which implement Executive Order 11598 (36 F.R. 11711, June 18, 1971) and regulations of the Secretary of Labor (41 CFR 50–250, September 14, 1971) concerning employment opportunities, with particular emphasis on assistance to veterans.

§ 1–12.1101 General.

Executive agencies shall cooperate with and encourage contractors to utilize to the fullest extent practicable the U.S. Training and Employment Service (USTES) and its affiliated local State Employment Service Offices in meeting contractors' manpower (labor supply) requirements to staff new or expanding plant facilities, including the recruitment of workers in all occupations and skills both from local labor market areas and through the Federal-State manpower clearance system. Local State Employment Service Offices are operated in every State and in the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands. In addition to providing recruitment assistance to contractors who need and desire it, cooperation with the local State Employment Service Offices will further the national program of maintaining continuous assessment of manpower requirements and resources on a national and local basis.

§ 1–12.1102 Listing of employment openings.

§ 1–12.1102–1 Policy.

Government contractors and first tier subcontractors shall list all of their suitable employment openings to the maximum extent feasible with the appropriate local office of the State employment service system as required by Executive Order 11598 and the rules and regulations of the Secretary of Labor issued pursuant thereto.

§ 1–12.1102–2 Clause.

Unless otherwise provided in this subpart, executive agencies shall include, either directly or by reference, the contract clause prescribed by this § 1–12.1102–2 in (a) all invitations for bids and requests for proposals, and (b) all contracts, including contracts resulting from unsolicited proposals, where it is anticipated that a contract will be for $10,000 or more and will generate 400 or more man-days of employment. However, the clause shall not be included in contracts with State and local governments.

LISTING OF EMPLOYMENT OPENINGS

(This clause is applicable pursuant to 41 CFR 50–250 if this contract is for $10,000 or more and will generate 400 or more man-days of employment.)

(a) The Contractor agrees that all employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall, to the maximum extent feasible, be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide such periodic reports to such local office regarding employment openings and hires as may be required.

(b) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve only the normal obligations which attach to the placing of a bona fide job order but does not require the hiring of any job applicant referred by the employment service system.

(c) The periodic reports required by paragraph (a) of this clause, shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one establishment in a State, with the central office of that State employment service. Such reports shall indicate for each establishment the number of individuals who were hired during the reporting period and the number of hires who were veterans who served in the Armed Forces on or after August 5, 1964, and who received other than a dishonorable discharge. The Contractor shall maintain copies of the reports submitted until the expiration of 1 year after final payment under the contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor.

(d) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, he shall advise the employment service system in each State wherein he has establishments of the name and location of each such establishment in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State employment service system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State systems when it is no longer bound by this contract clause.

(e) This clause does not apply (1) to the listing of employment openings which occur outside of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, and (2) to contracts with State and local governments.

(f) This clause does not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(g) As used in this clause:

(1) "All employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings which are compensated on a salary basis of less than $18,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area of the establishment where the employment opening is to be filled, including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement," means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) or outside of a special hiring arrangement which is part of the customary and traditional employment relationship which exists between the Contractor and representatives of his employees and includes any openings which the Contractor proposes to fill from regularly established "recall" or "rehire" lists or from union hiring halls.

(4) "Man-day of employment" means any day during which an employee performs more than 1 hour of work.

(h) The Contractor agrees to place this clause (excluding this paragraph (h)) in any subcontract directly under this contract.

§ 1–12.1102–3 Deviations.

Under the most compelling circumstances such as situations when the needs of the Government cannot reasonably be otherwise supplied or when it is determined that a deviation would be in the best interest of the Government, a deviation from this requirement may be made, subject to approval by the Secretary of Labor under procedures in 41 CFR 50–250.5(c). However, any application for relaxation of this requirement shall be made consistent with the provisions of § 1–1.009.

§ 1–12.1102–4 Exceptions to listing requirements.

Executive Order 11598 requires Government contractors and first-tier subcontractors to list all of their suitable employment openings to the maximum extent feasible. Feasibility, in this regard, shall be taken to mean that it is reasonably possible for the listings to be made. An example of an infeasible listing is one where the listing of an employment opening would be contrary to national security. Contractors with inquiries regarding situations where the listing of openings may be considered to be infeasible shall be advised that such questions should be submitted to the Manpower Administrator, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, DC 20210.

§ 1–12.1102–5 Failure to comply.

Upon receipt of notice that a contractor has failed to comply with the provisions of the Listing of Employment Openings clause in § 1–12.1102–2, the

contracting officer shall take such action as may be appropriate under the default provisions of the contracts concerned.

PART 1–16—PROCUREMENT FORMS

Subpart 1–16.1—Forms for Advertised Supply Contracts

Section 1–16.101 is amended to change paragraph (c) to read as follows:

§ 1–16.101 Contract forms.

* * * * *

(c) General Provisions (Supply Contract) (Standard Form 32, November 1969 edition). Pending the publication of a new edition of the form, the Examination of Records by Comptroller General clause prescribed by § 1–7.101–10 of this chapter shall be substituted for the provision entitled "Examination of Records" in Article 10, the Utilization of Labor Surplus Area Concerns clause prescribed by § 1–1.805–3(a) of this chapter shall be substituted for the provision entitled "Utilization of Concerns in Labor Surplus Areas" in Article 22, and the clause set forth in § 1–12.1102–2 shall be added.

* * * * *

Subpart 1–16.4—Forms for Advertised Construction Contracts

Section 1–16.401 is amended to change paragraph (h) to read as follows:

§ 1–16.401 Forms prescribed.

* * * * *

(h) General Provisions (Construction Contract) (Standard Form 23–A, October 1969 edition). Pending publication of a new edition of the form, add the clause set forth in § 1–12.1102–2.

Subpart 1–16.6—Forms of Leases for Real Property

Section 1–16.601 is amended to change paragraph (b) to read as follows:

§ 1–16.601 Forms prescribed.

* * * * *

(b) Standard Form 2–A, May 1970 edition, General Provisions, Certification and Instructions, U.S. Government Lease for Real Property. Pending publication of a new edition of the form, the Examination of Records by Comptroller General clause prescribed by § 1–7.101–10 shall be substituted for the provision entitled "Examination of Records" in Article 11, and the clause set forth in § 1–12.1102–2 shall be added.

* * * * *

Subpart 1–16.7—Forms for Negotiated Architect-Engineer Contracts

Section 1–16.701 is amended to change paragraph (b) to read as follows:

§ 1–16.701 Forms prescribed.

* * * * *

(b) General Provisions (Architect-Engineer Contract) (Standard Form 253, August 1970 edition). Pending publication of a new edition of the form, the Examination of Records by Comptroller General clause prescribed by § 1–7.101–10 of this chapter shall be substituted for the provisions entitled "Examination of Records" in Article 8, and the clause set forth in § 1–12.1102–2 shall be added.

* * * * *

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

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER (2–5–72).

Dated: January 28, 1972.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.72–1711 FHed 2–4–72;8:46 am]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101–27—INVENTORY MANAGEMENT

Subpart 101–27.5—Return of GSA Stock Items

REDUCTION OF CREDIT ALLOWANCE

The credit allowance for return to GSA of GSA items in condition code A is reduced from 90 to 80 percent.

Section 101–27.503–1 is revised to read as follows:

§ 101–27.503–1 Serviceable material.

Credit will be granted at the rate of 80 percent of the current GSA Stock Catalog selling price after acceptance by GSA for new, used, repaired, or reconditioned material which is serviceable and issuable to all agencies without limitation or restriction (condition code A).

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (2–5–72).

Dated: January 28, 1972.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.72–1712 Filed 2–4–72;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

Applicability of Certain U.S. Footnotes to the Table of Frequency Allocations; Correction

In the matter of amendment of § 2.106 of the Commission's rules and regulations concerning applicability of certain U.S. footnotes to the Table of Frequency Allocations.

In the order in the above-entitled matter released January 7, 1972, FCC 72–6 (37 F.R. 604), it is necessary to correct the amendments to § 2.106 to read as follows:

Footnote US17 is deleted and removed from the band 225–328.6 MHz, footnote US103 is deleted and removed from the bands 70–90 kHz and 110–130 kHz, and footnote US72 is added to the band 23.0–24.25 GHz and amended as follows:

US72 Airport Surface Detection Equipments (ASDE's) in operation between 23.6 and 24.47 GHz as of June 1, 1970, may continue to operate on a primary basis and shall be protected from other authorized operations in this band. ASDE's designed for introduction into service after June 1, 1970, will not be permitted to operate in the band 23.6–24.25 GHz, but may operate on a primary basis in the band 24.25–25.25 GHz.

Released: February 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–1751 Filed 2–4–72;8:49 am]

Chapter II—Office of Telecommunications Policy

PART 211—EMERGENCY RESTORATION PRIORITY PROCEDURES FOR TELECOMMUNICATIONS SERVICES

Policy, Submission, Processing, and Obligation

Part 211 of Chapter II of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 211.1(b) is amended to read as follows:

§ 211.1 Authority.

* * * * *

(b) Authority to develop plans, policies, and procedures for the establishment of such restoration priorities has been delegated to the Director of the Office of Telecommunications Policy by Executive Orders 10705, 11051, 11490, and by the President's Memorandum of August 21, 1963 (28 F.R. 9413, 3 CFR Part 858 (1959–63 comp.)), all as amended by Executive Order 11556 (3 CFR Part 158 (1970 comp.)).

2. Section 211.4(e) is amended to read as follows:

§ 211.4 Policy.

* * * * *

(e) It is recognized that as a practical matter in providing for the maintenance or restoration of a priority service or services operating within a multiple circuit-type facility (such as a carrier band, cable, or multiplex system), lower priority, lower subpriority, or nonpriority services on paralleled channels within a band or system may be restored concurrently with higher priority services. Such reactivation shall not, however, interfere with the expedited restoration of other priority services.

* * * * *

3. Section 211.6(c) is amended to read as follows:

§ 211.6 Submission and processing of restoration priority requests.

* * * * *

(c) Industrial/Commercial entities designated for prearranged voluntary participation with the Federal Government in a national emergency should submit separate applications to the Commission when requesting the assignment of priorities in category 1 or 2. Such assignments will require the approval of the Director in order to continue to be effective during a war emergency. In all cases the justification for restoration priorities will contain a validation statement from the Government agency with whom participation is prearranged.

* * * * *

4. Section 211.7(b) is amended to read as follows:

§ 211.7 Obligation of carriers.

* * * * *

(b) * * *

(2) Enter into agreements, to the extent possible, with their foreign correspondents to effect restoration of the foreign portion of leased international services in accordance with this part.

(3) Notify the Executive Agent of foreign correspondent procedures affecting Federal Government services that are not reasonably consistent with the priority requirements of this part.

Effective: February 1, 1972.

GEORGE F. MANSUR,
Deputy Director.

[FR Doc.72-1722 Filed 2-4-72;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Accounting for Long-Term Contracts; Notice of Hearing

Proposed regulations under sections 451 and 471 of the Internal Revenue Code of 1954, relating to accounting for long-term contracts, appear in the FEDERAL REGISTER for December 15, 1971 (36 F.R. 23805).

Written comments or suggestions pertaining to such proposed regulations were required to be submitted by January 14, 1972. The time for submission of written comments or suggestions pertaining to such proposed regulations has been extended to February 15, 1972 (37 F.R. 336).

A public hearing on the provisions of these proposed regulations will be held on Tuesday, March 21, 1972, at 10 a.m., e.s.t., and if necessary, will continue on March 22, 1972, beginning at 10 a.m., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601 (a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making (including the extension of that time) and who desire to present oral comments should by March 15, 1972, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by March 17, 1972. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to minimum charge of $1.

LEE H. HENKEL, Jr.,
Acting Chief Counsel.

[FR Doc.72-1856 Filed 2-4-72;8:50 am]

[26 CFR Part 1]

INCOME TAX

Depreciation Allowances Using the Class Life Asset Depreciation Range System; Correction

On January 27, 1972, notice of proposed rule making with respect to regulations under sections 167(m) and 263(f) (relating to depreciation allowances using the class life asset depreciation range system) appeared in the FEDERAL REGISTER (37 F.R. 1328). The following changes should be made.

1. The 12th line of paragraph 5 should read "(i), and by inserting three new sentences at".

2. The 13th line of paragraph 34 should read "after 'use' the first time it appears in".

3. The 15th line of paragraph 45 should read "plies or scrap and of' immediately after".

4. A new paragraph 51a should be inserted immediately after paragraph 51, to read as follows:

PAR. 51a. Paragraph (e)(3)(iii) is revised by deleting "by reference to the activity in which such property is primarily used" in the third sentence and inserting in lieu thereof "as of the property were owned".

5. The 24th line of paragraph 53 should read "serting 'An' in lieu thereof, by inserting 'otherwise' immediately after 'not' in the flush material following subdivision (x), and by".

6. The 11th line of paragraph 54 should read "subdivision (*f*), by inserting 'otherwise' immediately after 'not' in the flush material following subdivision (*f*), and by inserting ', in".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.72-1855 Filed 2-4-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 726]

BURLEY TOBACCO

Notice of Determinations To Be Made With Respect to Marketing Quota Regulations for 1971-72 and Subsequent Marketing Years

Pursuant to, and in accordance with the Agricultural Act of 1938, as amended (7 U.S.C. 1281 et seq.), the Department is preparing to amend the regulations pertaining to determination of farm marketing quotas, lease and transfer of farm marketing quotas, and records for identification of marketings.

The purpose of this document is to give notice of the proposed changes in the regulations as follows:

1. The erroneous notice provision in § 726.66(d) would be broadened to include situations where the farm operator prior to planting the tobacco materially changes his position to produce the crop.

2. Section 726.68 (d) and (e) would be amended to provide for the use of Form ASCS-375 as a record of transfer of tobacco marketing quota. It would also provide that the record of transfer be signed by the parties to the lease and transfer and that the signature of either the owner or operator of the transferring farm, as well as the owner or operator of the receiving farm, be witnessed by a representative of the county ASC committee in the county where the farms are located or in any county convenient to the person signing.

3. The provisions in § 726.88(w)(1) would be clarified to state with particularity the farm against which overmarketings would be charged in any case where a lease of quota is canceled because of fraud on the part of the owner or operator of the transferring farm but without fault on the part of the owner or operator of the receiving farm. In such a case, it is proposed that the regulations expressly state that the overmarketings would be charged against the farm from which the transfer of quota was made if such farm, after any such reconstitution as may be necessary as a result of the fraud, is assigned a quota against which the overmarketings would be charged; otherwise, the overmarketings would be charged against any other farm involved in the fraud having a quota after any reconstitution required by the fraud. Notwithstanding the above, the amount of overmarketings on the receiving farm which is in excess of the amount of quota involved in the canceled lease would be charged against the receiving farm.

4. Section 726.93(l) would be changed to provide that the warehouse keep copies of bill-out invoices to the purchaser by grades showing the pounds purchased and identification reference to such basic warehouse records such as basket ticket or sale bill.

It is proposed that the burley tobacco regulations for 1971-72 and subsequent marketing years be amended as follows:

1. Paragraph (d) of § 726.66 is amended to read as follows:

§ 726.66 Approval of marketing quotas and notices to farm operators.

* * * * *

(d) *Marketing quota erroneous notice.* If the official notice of the farm marketing quota issued for a farm erroneously stated a marketing quota larger

than the correct effective farm marketing quota, the marketing quota shown on the erroneous notice shall be deemed to be the marketing quota and the basis for marketing quota penalty computation for the farm for the current marketing year only, if the county committee determines (with approval of the State executive director) that (1) the error was not so gross as to place the operator on notice thereof, and (2) that the operator, relying upon such notice and acting in good faith (i) materially changed his position to enable him to produce the quota crop (for example obligated expenditures of funds for land preparation, additional equipment and labor) or (ii) had planted tobacco on the farm and was not notified of the correct farm marketing quota prior to planting the tobacco. Undermarketings and overmarketings for farms for which the erroneous notice of marketing quota is applied shall be determined based on the correct effective farm marketing quota for the farm.

2. Paragraphs (d), (e), and (w)(1) of § 726.68 would be amended to read as follows:

§ 726.68 Transfer of burley tobacco farm marketing quotas by lease or by owner.

* * * * *

(d) *Filing and approval of transfer.* The transfer of a farm marketing quota or any part thereof shall not be effective until a copy of the lease agreement, determined to be in compliance with the provisions of this section, is filed with the county committee or designated county office employee at a market town location not later than February 15 of the current marketing year. The county committee may redelegate authority to approve leasing agreements to the county executive director or other county office employee. County office employees in market town locations designated by the State committee shall have authority to approve annual leases and transfers under the terms and conditions of this section even though the farms involved (which must be located in the same county) may be from a different county or State than the county committee supervising the market town location, subject to the review of the county committee for the county where the farms are administratively located. The filing of a properly executed record of transfer of quota, Form ASCS–375, will be considered to meet the requirement of this paragraph.

(e) *Record of transfer on ASCS–375.* No lease and transfer of any quota under this section for 1972 and subsequent crops shall become effective until a record of the transfer has been executed on Form ASCS–375 and filed with the county committee by the parties to the transfer. If the owner and operator of the farm from which transfer by lease is made are different persons, both owner and operator shall execute the record of transfer; however, only the owner or operator of the receiving farm is required to sign the transfer. A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office or market town location where the farm is administratively located, they may be witnessed in any county office or market town location, convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or other similar hardship cases may be met by mail, provided a verbal request is made by the producer.

* * * * *

(w) *Cancellation, dissolution or revision of transfer*—(1) *Cancellation.* (i) Any transfer approved in error or on the basis of incorrect information shall be canceled by the county committee. Such cancellation shall be effective as of the date of approval for purposes of determining overmarketings and undermarketings from the farms and for purposes of determining eligibility for price support and marketing quota penalties except that such cancellation shall not be effective for the current marketing year for purposes of determining price support and marketing quota penalties only if:

(*a*) The transfer approval was made in error or on the basis of incorrect information unknowingly furnished by the parties to the transfer agreement, and

(*b*) The parties to the transfer agreement were not notified of the cancellation before marketings for the receiving farm exceed the correct effective farm marketing quota. The provision of this subparagraph (1) shall not preclude application of the erroneous notice provisions under § 726.66 where such provisions are applicable.

(ii) Where a lease and transfer is canceled under subdivision (i) of this subparagraph because of fraud on the part of the owner or operator of the transferring farm, but without fault on the part of the owner or operator of the receiving farm and approved by the county committee with concurrence of the State committee the overmarketings would be charged against the farm from which the transfer of quota was made if such farm, after any such reconstitution as may be necessary as a result of the fraud, is assigned a quota against which the overmarketings could be charged; otherwise, the overmarketings would be charged against any other farm involved in the fraud having a quota after reconstitution required by the fraud. Notwithstanding the above, the amount of overmarketings on the receiving farm which is in excess of the amount of quota involved in the canceled lease would be charged against the receiving farm.

* * * * *

3. Paragraph (l) of § 726.93 is amended to read as follows:

§ 726.93 Warehouseman's records and reports.

* * * * *

(l) *Invoice to purchaser.* Warehousemen shall keep copies of bill out invoices to the purchaser by grades showing the pounds purchased and identification references to such basic warehouse records as basket ticket or sale bill.

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

Signed at Washington, D.C., on January 31, 1972.

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

[FR Doc.72–1729 Filed 2–4–72;8:47 am]

[7 CFR Part 729]

PEANUTS

Proposed Determination To Be Made With Respect to Supply of Valencia Type Peanuts for 1972–73 Marketing Year

At the request of interested producers, the Secretary of Agriculture is initiating a study necessary to determine whether the supply of Valencia type peanuts for the 1972–73 marketing year will be insufficient to meet the estimated demand for cleaning and shelling purposes. This is in accordance with section 358(c) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1358(c)). This section, as amended, reads in part as follows:

"Notwithstanding any other provision of law, if the Secretary of Agriculture determines, on the basis of the average yield per acre of peanuts by types during the preceding 5 years, adjusted for trends in yields and abnormal conditions of production affecting yields in such 5 years, that the supply of any type or types of peanuts for any marketing year, beginning with the 1951–52 marketing year, will be insufficient to meet the estimated demand for cleaning and shelling purposes, at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it, the State allotments for those States producing such type or types of peanuts shall be increased to the extent determined by the Secretary to be required to meet such demand but the allotment for any State may not be increased under this provision above the 1947 harvested acreage of peanuts for such State. The total increase so determined shall be apportioned among such States for distribution among farms producing peanuts of such type or types

on the basis of the average acreage of peanuts of such type or types in the 3 years immediately preceding the year for which the allotments are being determined. The additional acreage so required shall be in addition to the national acreage allotment, the production from such acreage shall be in addition to the national marketing quota, and the increase in acreage allotted under this provision shall not be considered in establishing future State, county, or farm acreage allotments."

Prior to determining whether the supply of Valencia type peanuts for the 1972–73 marketing year will be insufficient under section 358(c) of the Act to meet the estimated demand for cleaning and shelling, consideration will be given to any data, views, and recommendations relating thereto which are submitted in writing to the Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. To be sure of consideration, any such submission must be postmarked not later than 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on Janu-

All written submissions made pursuant to this notice will be made available for public inspection at such time and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C. on January 31, 1972.

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

[FR Doc.72–1730 Filed 2–4–72;8:47 am]

Commodity Credit Corporation

[7 CFR Part 1434]

HONEY

Notice of Determinations Regarding 1972 Crop

The Secretary of Agriculture is preparing to make determinations with respect to a loan and purchase program for the 1972 crop of honey and the regulations to carry out the program. The determinations relate to:

a. Loan and purchase rates, color differentials, discounts for quality, and type of storage.

b. Loan maturity date and purchase availability date.

c. Detailed operating provisions to carry out the program.

The above determinations are to be made pursuant to the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1421 et seq.) and the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714 et seq.).

a. *Loan and purchase program, color differentials and discounts for quality and type of storage.* Title II of the Agricultural Act of 1949, as amended, authorizes and directs the Secretary to make available through loans, purchases, and other operations, support to producers of honey at a level which is not in excess of 90 percent nor less than 60 percent of the parity price thereof. Loan and purchase rates based on color, quality factors and type of storage are used to reflect marketing features and conditions under which honey is merchandised. Section 401(b) of the Act requires that, in determining a loan and purchase rate in excess of the minimum level prescribed for honey, consideration must be given to the supply of the commodity in relation to the demand thereof, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired under a loan and purchase program, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

b. *Loan maturity date and purchase availability date.* The loan maturity date and purchase availability date will be reviewed for 1972. For the 1971 program, the loan maturity date and the purchase availability date was June 30, 1972.

c. *Detailed operating provisions.* Detailed operating provisions necessary to carry out the loan and purchase program on honey are also being reviewed for 1972. Provisions of this kind may be found in the regulations providing terms and conditions for the current loan and purchase program in Part 1434 of Title 7 of the Code of Federal Regulations.

Prior to making the foregoing determinations and issuing related regulations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Secretary, Commodity Credit Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

In order to be sure of consideration, all submissions must be received not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 202–W, Administration Building, 14th and Independence Avenue SW., Washington, D.C.

Signed at Washington, D.C., on January 31, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72–1724 Filed 2–4–72;8:47 am]

Consumer and Marketing Service

[7 CFR Part 59]

INSPECTION OF EGG AND EGG PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given that the U.S. Department of Agriculture is considering amendments to the Regulations Governing the Inspection of Eggs and Egg Products under authority of the Egg Products Inspection Act (84 Stat. 1620 et seq., 21 U.S.C. 1031–1056).

Statement of considerations. The Egg Products Inspection Act (Public Law 91–597) became law on December 29, 1970. The egg products phase was effective July 1, 1971, and the shell egg phase will become effective July 1, 1972. The purpose of these proposed amendments is to clarify certain sections of the regulations governing the Act and provide more specific information for affected persons. In addition some changes would be made in the operating procedures for egg products plants to further insure the wholesomeness of the product.

The proposed amendments would require egg products not intended for human food to be both denatured and identified rather than either denaturing or identifying the product as presently permitted in the regulations. This would aid in preventing such product from being disposed of as edible product.

The section on suspension of plant approval and withdrawal of service in egg products plants would be expanded to notify the plant operator of the reasons for the action and afford him a chance to informally present his views prior to action. He would also have an opportunity for a hearing. The changes would also provide information on how to reestablish service after suspension or withdrawal of service.

More specific information would be given on the recordkeeping requirements. A written notice would be required for the owner or custodian when product is detained.

To assist the Department in making a judgment on label approvals, a statement of formulation of products with two or more ingredients would be required when labels are submitted for approval.

The section on handling of inedible product in an official egg products plant would be expanded to give examples of denaturing or decharacterizing substances that could be used. In the section on disposition of restricted eggs, specific examples would be given to show how this may be accomplished.

With respect to operating procedures in official egg products plants, the proposed amendments would specifically provide for refuse rooms for the accumulation of shells, trash, and other refuse, and provide that pipelines and other equipment used in pumping liquid directly from egg breaking machines be cleaned as often as necessary. When steam, vapors, or odors originate from egg washing equipment, they would have to be removed by a vent or exhaust system. Several other minor changes would be made solely for the sake of clarity.

All persons who desire to submit written data, views, or comments in connection with this proposal shall file the same in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, no later than March 6, 1972.

All written submissions made pursuant to this notice will be made available for

public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments are as follows:

1. In § 59.5 definition of "Egg," subparagraph (3), "Dirty egg" would be amended to read:

§ 59.5 Terms defined.

* * * * *

"Egg" * * *

(3) "Dirty egg" or "Dirties" means an egg(s) that has a shell that is unbroken and has adhering dirt, foreign material, or prominent stains.

* * * * *

1a. Section 59.40 would be amended to read:

§ 59.40 Continuous inspection not provided.

Continuous inspection shall not be provided under this part at any plant for the processing of any egg products which are not intended for use as human food, but such articles prior to their offer for sale or transportation in commerce, shall be denatured or decharacterized and identified as prescribed by these regulations to prevent their use for human food. Periodic inspections shall be made of such operations and records to assure compliance with the Act and these regulations.

2. In § 59.45, paragraph (a) would be amended to read:

§ 59.45 Prohibition on eggs and egg products not intended for use as human food.

(a) No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation in commerce, any eggs or egg products which are not intended for use as human food, unless they are denatured or decharacterized and identified as required by these regulations.

* * * * *

3. In § 59.128, paragraph (b) would be amended to read:

§ 59.128 Holiday inspection service.

* * * * *

(b) The term "holiday" shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5 of the United States Code. Information on legal holidays may be obtained from the supervisor.

4. In § 59.160, paragraphs (d) (1) and (2) and paragraph (e) would be amended and new subparagraphs (3) and (4) would be added to paragraph (f) to read:

§ 59.160 Refusal, suspension, or withdrawal of service.

* * * * *

(d) (1) Any applicant for inspection at a plant where the operations thereof may result in any discharge into the navigable waters in the Unted States is required by subsection 21(b) (2) and (3) of the Federal Water Pollution Control Act, as amended (84 Stat. 91), to provide the Administrator with a certification as prescribed in said subsection that there is reasonable assurance that such activity will be conducted in a manner which will not violate the applicable water quality standards. No grant of inspection can be issued after April 3, 1970 (the date of enactment of the Water Quality Improvement Act), unless such certification has been obtained, or is waived because of failure or refusal of the State, interstate agency, or the Administrator of the Environmental Protection Agency to act on a request for certification within a reasonable period (which shall not exceed 1 year after receipt of such request). Further, upon receipt of an application for inspection and a certification as required by subsection 21(b) of the Federal Water Pollution Control Act, the Administrator (as defined in § 59.5) is required by subparagraph (2) of said paragraph to notify the Administrator of the Environmental Protection Agency for proceedings in accordance with that paragraph. No grant of inspection can be made until the requirements of said subparagraph (2) of this paragraph have been met.

(2) However, certification is not initially required in connection with an application for inspection granted after April 3, 1970, for facilities existing or under construction on April 3, 1970, although certification for such facilities is required to be obtained within the 3-year period immediately following April 3, 1970. Failure to obtain such certification and meet the other requirements of subsection 21(b) prior to April 3, 1973, will result in the termination of inspection at such plant on that date. In the case of any activity which will affect water quality, but for which there are no applicable water quality standards, no certification is required prior to a grant of inspection, but such grant will be conditioned upon a requirement of compliance with the purposes of the Federal Water Pollution Control Act as provided in subsection 21(b)(9) of said Act.

(e) Inspection may also be suspended, revoked, or terminated as provided in section 21 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq. and Public Law 91-224).

(f) Suspension of plant approval and withdrawal of service:

* * * * *

(3) The operator shall be notified of the withdrawal action and the reasons therefor and afforded an opportunity to present his views informally prior to the effective date of such withdrawal, and upon written request, he shall be afforded an opportunity for a hearing in accordance with the applicable rules of practice (Part 50 of this chapter), with respect to the merits or validity of the withdrawal, but such a suspension or other withdrawal shall continue in effect pending the outcome of any such hearing unless otherwise ordered by the Administrator.

(4) In any case where inspection service is suspended under this paragraph (f), such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as an inspector can be made available. In any case where inspection service is withdrawn for a specified period under this paragraph (f), the person concerned may, after said specified period has expired, apply for inspection service as provided in §§ 59.140 through 59.146.

5. Section 59.200 would be amended to read:

§ 59.200 Records and related requirements.

(a) Persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce, or holding such articles so received, and all egg handlers, including hatcheries, shall maintain records showing, for a period of 2 years, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of an authorized representative of the Secretary, permit him, at reasonable times, to have access to and to copy all such records.

(b) Production records by categories of eggs such as graded eggs, nest-run eggs, dirties, checks, leakers, loss, inedible, etc., bills of sale, inventories, receipts, shipments, shippers, receivers, dates of shipment and receipt, carrier names, etc., as determined by the Administrator, shall be maintained by all shell egg handlers and egg processing operations, except that, (1) Producers who ship all of their production as nest-run eggs without segregation need only to maintain records indicating the amount of shell eggs shipped, date of shipment, and the receivers' name and address, and (2) Official egg products plants which use all shell eggs received and do not reship any shell eggs need only to maintain records indicating the amount of eggs received, date received, and the name and address of the shipper.

6. Section 59.240 would be amended to read:

§ 59.240 Detaining product.

Whenever any eggs or egg products subject to the Act are found by any authorized representative of the Secretary upon any premises, and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of the Act or these regulations, or that they are in any other way in violation of the Act, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under these regulations, such articles may be detained by such representative for a period not to exceed 20 days, as more fully provided in section 19 of the Act. A detention tag or other similar device shall be used to identify detained product, and the custodian or owner shall be given a written notice of such detention. Only authorized representatives of the Secretary shall affix or

remove detention identification. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of the Act, these regulations, or other laws.

7. Section 59.411 would be amended to read:

§ 59.411 Requirement of formulas and approval of labels for use in official egg products plants.

(a) No label, container, or packaging material which bears official identification shall bear any statement that is false or misleading. Any label, container, or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label, container, or packaging material bearing official identification may be used unless it is approved by the Administrator in accordance with paragraph (b) of this section. If the label is printed on or otherwise applied directly to the container or packaging material, the principal display panel thereof shall be considered as the label.

(b) No label, container, or packaging material bearing official identification shall be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with these regulations, the Egg Products Inspection Act, the Federal Food, Drug, and Cosmetic Act, and the Fair Packaging and Labeling Act. The finished copies or samples of such label must be submitted to the Administrator for approval. Copies of each label submitted for approval shall be accompanied by:

(1) A statement showing by their common or usual names the kinds and percentages of the ingredients comprising the egg product in the form in which it is to be used (i.e., liquid or dried). Approximate percentages (range) may be given in cases where the percentages may vary from time to time.

(2) When required, scientific data demonstrating that the substance or mixture is safe and effective for its intended use and does not promote deception or cause the product to be otherwise adulterated or misbranded.

(c) Containers of product bearing official identification shall display the following information:

(1) The common or usual name, if any there be, and if the product is comprised of two or more ingredients, such ingredients shall be listed in the order of descending proportions;

(2) The name and address of the packer or distributor. When the distributor is shown, it shall be qualified by such terms as "packed for," "distributed by," or "distributors";

(3) The lot number or production code number;

(4) The net contents;

(5) Official identification and plant number;

(6) Egg products which are produced in an official plant from edible shell eggs of other than current production or from other egg products produced from shell eggs of other than current production, shall be clearly and distinctly labeled in close proximity to the common or usual name of the product, e.g., "Manufactured from eggs of other than current production";

(7) Egg products produced from edible shell eggs or the egg product produced from such shell eggs of the turkey, duck, goose, or guinea shall be clearly and distinctly labeled as to the common or usual name of the product indicating the type of eggs or egg products used in the product, e.g., "Frozen whole turkey eggs," "Frozen whole chicken and turkey eggs." Egg products labeled without qualifying words as to the type of shell egg used in the product shall be produced only from the edible shell egg of the domesticated chicken or the egg product produced from such shell eggs.

(d) Liquid or frozen egg products identified as whole eggs and prepared other than in natural proportions, as so broken from the shell, shall have a total egg solids content of 24.70 percent or greater.

(e) If the Administrator has reason to believe that the statement on formulation shows the product to be adulterated or misbranded or that any labeling, or the size or form of any container in use or proposed for use in respect to egg products at any official plant is false or misleading in any way, he may direct that such use be withheld unless the labeling or container is modified in such a manner as he may prescribe so that it will not be false or misleading, and/or the formulation of the product is altered in such a manner that he may prescribe so that it is not adulterated or would not cause misbranding. Any person so denied the approval of any label shall be notified promptly of the reasons for the denial on a form approved by the Administrator. If the person using or proposing to use the label does not accept the determination of the Administrator, he may request a hearing by filing with the Administrator within 10 days after receiving the notice of denial, a written application for a hearing setting forth specifically, the errors alleged to have been made by the Administrator in denying approval of the label. The use of the label shall be withheld pending hearing and final determination by the Administrator if the Administrator so directs. Hearings held pursuant to this subsection shall be presided at by the Administrator. The applicant shall be given the opportunity to present evidence both oral and written in support of his allegation that the Administrator erred in denying approval of the label. The notice of denial together with all other available data and information used as a basis for such denial shall be considered part of the record. The Administrator may take official notice of such matters as are judicially noticed by the Courts of the United States and of any other matter of technical, scientific, or commercial fact of established character. The Administrator shall make his final determination with respect to the matter upon the basis of evidence before him. Such determination shall be conclusive unless, within 30 days after the receipt of notice of such final determination, the person adversely affected thereby appeals to the U.S. Court of Appeals for the circuit in which he has his principal place of business, or to the U.S. Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act of 1921, as amended, shall be applicable to appeals taken under this section.

8. In § 59.500, a new paragraph (o) would be added to read:

§ 59.500 Plant requirements.

* * * * *

(o) Refuse rooms shall be provided for the accumulation and storage of shells, trash, and other refuse. They shall be separate rooms completely enclosed without doorways opening into breaking or processing rooms, and have concrete floors with approved drains, facilities for cleaning, and a forced air exhaust system vented to the outside.

9. In § 59.504, paragraph (c) and paragraph (o) (3) (iii) would be amended and a new paragraph (q) would be added to read, respectively:

§ 59.504 General operating procedures.

* * * * *

(c) All loss and inedible eggs or egg products shall be placed in a container clearly labeled inedible and containing an approved denaturant or decharacterant such as FD&C blue, black or green colors, meat or bone meal, or any other substance, as approved by the Administrator, that will accomplish the purposes of this section. Shell eggs shall be crushed and the substance shall be dispersed through the product in amounts sufficient to give the product a distinctive appearance or odor. Notwithstanding the foregoing, and upon permission of the inspector, the applicant may hold inedible product in containers clearly labeled inedible which do not contain a denaturant if such inedible product is denatured or decharacterized prior to shipment from the official plant: *Provided*, That such product is properly packaged, labeled, segregated, and inventory controls are maintained.

* * * * *

(o) * * *

(3) * * *

(iii) The applicant shall acknowledge receipt of each shipment by indicating on the reverse side of the USDA certificate, "The volume of nonpasteurized egg product stated on this certificate was received at _____," the blank being filled in with the name and address of the receiving company and the date and signature of the person completing the form. The certificate shall be returned to the USDA inspector at the origin plant.

* * * * *

(q) All liquid and solid waste material in the official plant shall be disposed of in a manner approved by the Administrator to prevent product contamination

and in accordance with acceptable environmental protection practices.

10. In § 59.506, paragraph (c) would be amended to read:

§ 59.506 Candling and transfer-room facilities and equipment.

(c) Ventilation shall be provided by means of an approved forced air exhaust system for the room. The room temperature shall be maintained at reasonable working temperatures during operations. When steam, vapors, or odors originate from the shell egg washing equipment, they shall be continuously removed by a vent or exhaust system directly to the outside.

§ 59.520 [Amended]

11. In § 59.520, paragraph (i), the last line would be amended to read: "Automatic, closed packaging systems."

12. In § 59.522, paragraph (aa)(2) would be amended to read:

§ 59.522 Breaking room operations.

* * * * *

(aa) * * *

(2) Systems for pumping egg liquid directly from egg breaking machines shall be of approved sanitary design and construction, and designed to minimize the entrance of shells into the system and be disconnected when inedible eggs are encountered. The pipelines of the pumping system shall be cleaned or flushed approximately every 4 hours or as often as needed to maintain them in a sanitary condition. They shall be cleaned and sanitized at the end of each shift. Other pumping system equipment shall be cleaned and sanitized approximately every 4 hours or as often as needed to maintain it in a sanitary condition. All liquid egg pumped directly from egg breaking machines shall be reexamined, except as otherwise prescribed and approved by the Administrator.

* * * * *

13. Section 59.690 would be amended to read:

§ 59.690 Persons required to register.

Shell egg handlers, except for producer-packers with an annual egg production from a flock of 3,000 hens or less, who grade and pack eggs for the ultimate consumer (e.g., retail stores, households, restaurants, institutions, food manufacturers, etc.), and hatcheries, prior to July 1, 1972, are required to register with the U.S. Department of Agriculture by furnishing their name, place of business, and such other information as is requested on forms provided by and/or available from the U.S. Department of Agriculture. Completed forms shall be sent to the addressee indicated on the form. Persons as those listed above who establish businesses after July 1, 1972, will be required to register before they start operations.

14. In § 59.720, paragraph (a) would be amended to read:

§ 59.720 Disposition of restricted eggs.

(a) Eggs classified as checks, dirties, incubator rejects, inedibles, leakers, or loss shall be disposed of by one of the following methods at point and time of segregation:

(1) Checks and dirties may be shipped directly or indirectly to an official egg products plant for segregation and processing when labeled in accordance with § 59.800. Inedibles and loss eggs shall not be intermingled in the same containers with checks and dirties.

(2) By destruction in a manner approved by the Administrator, such as crushing and denaturing or decharacterizing in accordance with § 59.504(c) and identifying the product as "Inedible Egg Product—Not To Be Used As Human Food."

(3) Processing for industrial use or for animal food. Such product shall be denatured or decharacterized in accordance with § 59.504(c) and identified as provided in §§ 59.840 and 59.860. Notwithstanding the foregoing, product which was produced under official supervision and transported for industrial use or animal food need not be denatured or decharacterized if it is shipped under Government seal and received by an inspector or grader as defined in this part.

(4) By coloring the shells with a sufficient amount of FD&C color to give a distinct appearance, or applying a substance that will penetrate the shell and decharacterize the egg meat.

(5) Incubator rejects shall be broken or crushed and denatured or decharacterized in accordance with § 59.504(c) and labeled as required in §§ 59.840 and 59.860.

* * * * *

15. Section 59.860 would be amended to read:

§ 59.860 Identification wording.

The letters of the identification wording shall be legible and conspicuous.

§ 59.905 [Amended]

16. In § 59.905, paragraph (a), the last three lines would be amended to read: "Such identification shall be legible and conspicuous."

17. In § 59.930, paragraph (d) would be amended to read:

§ 59.930 Imported eggs and egg products; retention in customs custody; delivery under bond; movement prior to inspection; sealing; handling; facilities, and assistance.

* * * * *

(d) No person shall affix, break, alter, deface, mutilate, remove, or destroy any special import seal of the U.S. Department of Agriculture, except customs officers or inspectors, or as provided in paragraph (f) of this section.

* * * * *

§ 59.945 [Amended]

18. In § 59.945, paragraph (a), the last line would be amended to read: "Thereof to the District Director of Customs."

§ 59.960 [Amended]

19. In § 59.960, the following would be added to read: "The amount of product imported shall not exceed 30-dozen shell eggs, 30 pounds of liquid or frozen eggs, or 50 pounds of dried egg products, unless otherwise authorized by the Administrator."

Signed at Washington, D.C., this 1st day of February 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72-1732 Filed 2-4-72;8:48 am]

[7 CFR Part 81]

INSPECTION OF POULTRY AND POULTRY PRODUCTS

Facilities for Inspection

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Consumer and Marketing Service of this Department is considering amending § 81.33(f) of the Regulations Governing the Inspection of Poultry and Poultry Products (7 CFR Part 81) by adding the requirement for laundry service for inspectors' outer work garments.

Statement of considerations. Because of a common meat and poultry inspection program, it is important that work methods and conditions be uniform. The meat inspection regulations (9 CFR Part 307.1) require that laundry service be provided by the official establishment for inspectors' outer work clothing. Such garments are better washed at commercial laundries than in most home washing situations. Therefore, the Department proposes to amend 7 CFR 81.33(f) of the Regulations Governing the Inspection of Poultry and Poultry Products by adding the following sentence:

§ 81.33 Rooms and compartments.

* * * * *

(f) * * * Laundry service for inspectors' outer work clothing shall be provided by each official establishment.

* * * * *

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Persons desiring opportunity for oral presentation of views should address such requests to Dr. M. R. Humphrey, Standards and Services Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for such presentation within the 30-day period. A transcript will be made of all views orally presented.

All written submissions and transcripts of oral views made pursuant to this notice will be made available for public inspection unless the person making the

submission requests that it be held confidential and a determination is made that a proper showing in support of the request has been made on the grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on February 1, 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72-1731 Filed 2-4-72;8:48 am]

[9 CFR Parts 316, 317]

INGREDIENT STATEMENTS FOR CURED MEAT PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that the Consumer and Marketing Service is considering amending Parts 316 and 317 of the meat inspection regulations (9 CFR 316 and 317) as indicated below, pursuant to the authority contained in section 21 of the Federal Meat Inspection Act, as amended (21 U.S.C. 621).

Statement of considerations. The art of curing meat is as old as history itself. Long before the meat industry was established, individuals cured their own meats with ingredients known to them. As the years passed, these simple curing mixtures became more and more complicated. The marketing methods, too, changed drastically. Where years ago only one or two standard ingredients made up the curing mixtures, today a curing mixture may be composed of 10 or more ingredients. Then, too, the general public was more intimately acquainted with curing procedures, having more farm ties than exist today. Lately, it has become increasingly apparent that the general public has no knowledge of the ingredients in such cured products as ham, bacon, dried beef, corned beef, pastrami, capacollo, and other cured meat products.

In the past, the standard curing ingredients used were not identified on such products or their labels. However, under section 1(n) (7) (9) and (12) of the amended Act and § 317.2 of the regulations thereunder, labels on the immediate containers of all products fabricated from two or more ingredients are required to list all of the ingredients in the products. This document proposes to interpret those requirements as applying to the ingredients of cured meat products. Further, this document proposes to amend § 316.10 of the regulations to require an ingredients statement directly on all cured products, whether or not in containers.

Therefore, Part 316 of the regulations (9 CFR, Part 316) would be amended by adding a new paragraph (d) to § 316.10 to read:

§ 316.10 Markings of meat food products with official inspection legend and ingredients statement.

* * * * *

(d) All cured products shall be marked with the list of ingredients in accordance with Part 317 of this subchapter.

Further, Part 317 of the regulations (9 CFR, Part 317) would be amended by adding a new § 317.17 to read as follows:

§ 317.17 Interpretation and statement of labeling policy.

With respect to sections 1(n) (7) ,(9) and (12) of the Act and § 317.2, any substance mixed with another substance to cure a product must be identified in the ingredients statement on the label of such product. For example, curing mixtures composed of such ingredients as water, salt, sugar, sodium phosphate, sodium nitrate, and sodium nitrite or other permitted substances which are added to any product, must be identified on the label of the product by listing each such ingredient in accordance with the provisions of § 317.2.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by February 28, 1972. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during business hours (7 CFR 1.27(b)). Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on February 1, 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72-1760 Filed 2-4-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 118, 143]

GRANTS FOR PLANNING AND ESTABLISHING SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

Guidance, Counseling, and Testing Programs

Notice is hereby given, in accordance with 5 U.S.C. 553 and pursuant to the authority contained in title III of the Elementary and Secondary Education Act of 1965, as amended, that the regulations set forth in tentative form below are proposed by the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, for inclusion in Part 118 of Title 45 of the Code of Federal Regulations. These regulations contain provisions governing grants to States for planning and establishing supplementary educational centers and services and guidance, counseling, and testing programs under title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 841–848). Separate regulations containing provisions governing grants to local educational agencies for special programs and projects under section 306 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 844b), are being proposed for inclusion in Part 126 of Title 45 of the Code of Federal Regulations.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the Bureau of Elementary and Secondary Education, U.S. Office of Education, Seventh and D Streets SW., Room 3050 ROB, Washington, D.C. 20202. Comments received in response to this notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m. and 4:30 p.m.

In order to reflect the amendments to the Elementary and Secondary Education Act of 1965 that are contained in Public Law 91–230, and to effect a general reorganization of regulations concerning supplementary educational centers and services and guidance, counseling, and testing programs, Part 143 is revoked and Part 118 is revised to read as follows:

Subpart A—Scope of Regulations; Definitions

Subpart B—State Advisory Council

Subpart C—The State Plan

Subpart D—Program Requirements

AUTHORITY: The provisions of this Part 118 are issued under 20 U.S.C. 841–847a. Interpret or apply 20 U.S.C. 841–847a, 881, 885, and 1232–1232e.

Subpart A—Scope of Regulations; Definitions

§ 118.1 Scope of regulations.

The regulations published in this part are applicable to grants to States for planning and establishing supplementary educational centers and services and guidance, counseling, and testing programs. Regulations applicable to grants for such purposes by the U.S. Commissioner of Education directly to local educational agencies pursuant to section 306 of title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 344b) are published in Part 126 of this title. Allotments of Federal funds under title III of the Act to the Departments of Interior and Defense pursuant to section 302(a)(1) of the Act (20 U.S.C. 842(a)(1)) shall be governed by such terms and conditions consistent with the Act as may be mutually agreed upon by these Departments and the Commissioner (20 U.S.C. 842 (a)(1)).

§ 118.2 Definitions.

As used in this part:

(a) "Act" means the Elementary and Secondary Education Act of 1965, Public Law 89–10, as amended (20 U.S.C. Ch. 24).

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

(c) "Construction" means (1) the erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; (2) the acquisition of existing structures not owned by the agency making application for assistance under title III of the act; (3) the remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(d) "Cultural and educational resources" includes State educational agencies, institutions of higher education, private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

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

(f) "Elementary school" means a day or residential school which provides elementary education, as determined under State law.

(g) "Equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facilty for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials. Equipment does not include consumable supplies.

(h) "Exemplary," as applied to an educational program, project, service, or activity, means designed to serve as a model for a regular school program.

(i) "Free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(j) "Guidance and counseling" in relation to activities undertaken pursuant to section 303(b)(4) of the Act (20 U.S.C. 843(b)(4)), refers to (1) services to pupils to assist them in assessing and understanding their particular abilities, educational needs, and career and vocational interests in light of all applicable environmental factors, and (2) assistance in personal and social development, including the development of a positive self-concept.

(k) "Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired, and who by reason thereof require special education and related services.

(l) "Innovative," as applied to an educational program, project, service or activity, means new or improved ideas, practices, or techniques.

(m) "Junior college" means an institution of higher education which (1) is organized and administered principally to provide a 2-year program which is acceptable for full credit toward a bachelor's degree; (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (3) is legally authorized within the State to provide a program of education beyond secondary education; (4) is a public or other nonprofit institution; (5) is accredited by a nationally recognized accrediting agency or association, or, if not so accredited (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency within a reasonable period of time, or (ii) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and (6) if a branch of an institution of higher education offering 4 or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

(n) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. For the purposes of this definition, "service function" means an educational service which is performed by a legal entity, such as an intermediate agency, whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

(o) "Nonprofit," as applied to a school, agency, organization, or institution, means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(p) "Private school" means a nonprofit school which is operated or controlled by other than a public authority, and which complies with State compulsory school attendance laws or is otherwise recognized or accredited by some procedure customarily used in the State

as having curricula similar to that required of comparable public schools.

(q) "Project period" means the total period of time for which a State proposes to fund a local project under title III of the Act.

(r) "Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include education beyond grade 12.

(s) "State" includes, in addition to the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(t) "State aid" means any contribution, no repayment for which is expected, by a State made to or on behalf of a local educational agency within the State for the support of free public elementary and secondary education.

(u) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(v) "Technical institute" means an institution of higher education which (1) meets the requirements of subparagraphs (2) through (6) of the definition of "junior college" set forth in paragraph (m) of this section, and (2) is organized and administered principally to provide a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

(w) "Testing," in relation to activities undertaken pursuant to section 303(b)(4) of the Act (20 U.S.C. 843(b)(4), means the use of tests which measure abilities from which aptitudes for an individual's educational or career development may be validly inferred.

(x) "Works of art" means those items, which may be in the nature of fixtures, that are incorporated in school facilities primarily because of their esthetic value. The cost of a work of art which is in the nature of a fixture shall be the estimated additional cost of incorporating those special esthetic features which exceed the general requirements of excellance of architecture and design. (20 U.S.C. 403, 485, 844, 881)

Subpart B—State Advisory Council

§ 118.3 Establishment and certification.

(a) Each State desiring to receive payments under title III of the Act and the regulations in this part for any fiscal year shall establish a State advisory council which is appointed by the State educational agency, and is broadly representative of the cultural and educational resources of the State (as defined in § 118.2(d)) and of the public, including persons representative of (1) elementary and secondary schools, (2) institutions of higher education, (3) areas of professional competence in dealing with children needing special education because of physical or mental handicaps, (4) areas of professional competence in guidance, counseling, and testing, and (5) children from low-income families and other low-income individuals.

(b) The Chief State School Officer and members of the State educational agency shall be ineligible to serve on the State advisory council either as chairman or as voting members.

(c) The State educational agency shall certify the establishment of, and membership of, its State advisory council to the Commissioner at least 90 days prior to the beginning of any fiscal year in which the State desires to receive a grant under title III of the Act and these regulations. The certification shall include the name, education, experience, and current position of each person serving on the State advisory council and shall specify which interest under paragraph (a) of this section each person represents. (20 U.S.C. 844a(a))

§ 118.4 Functions.

(a) The functions of the State advisory council shall include: (1) Advising the State educational agency on the preparation of, and policy matters arising in the administration of the State plan and in the development of the policies and procedures required by these regulations, including the criteria for approval of applications under the State plan; (2) reviewing and making recommendations to the State educational agency on the action, to be taken with respect to each application for a grant under the State plan; (3) evaluating programs and projects assisted under title III of the Act; and (4) preparing and submitting through the State educational agency annual reports of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council on Supplementary Centers and Services established pursuant to section 309 of the Act. (20 U..S.C. 847a)

(b) The State advisory council shall meet and select a chairman from its membership within 30 days after certification under § 118.3(c) has been accepted by the Commissioner, and shall meet at such other times throughout the year as may be necessary to fulfill its functions under paragraph (a) of this section. The time, place, and manner of such meetings shall be determined by the council, except that it shall hold not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of title III of the Act.

(c) The State advisory council shall be authorized to obtain (with funds paid to the State under section 307(b) of the Act (20 U.S.C. 845(b)) the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under paragraph (a) of this section, and to contract for such services as may be necessary to enable it to carry out its evaluation functions. (20 U.S.C. 844a(a))

Subpart C—The State Plan

§ 118.6 Preparation of plan.

(a) *General.* Any State desiring to receive funds under title III of the Act for any fiscal year shall, as a condition to the receipt of such funds, submit a State plan to the Commissioner, in accordance with such forms and instructions as he shall furnish, which meets the requirements of the Act and these regulations.

(b) *Submission.* The State plan shall be prepared and submitted annually and shall be developed in the light of all relevant information obtained, in the prior year or in the process of preparing the new plan, from reassessments of educational needs, evaluations of programs and projects funded under title III of the Act, and reports and recommendations of the State advisory council.

(c) *Certifications*—(1) *By State educational agency.* The State plan and each amendment thereto shall include as an attachment a certificate by an officer of the State educational agency authorized to submit the plan to the effect that the State plan or amendment thereto has been adopted by the State educational agency and that the State plan, or plan as amended, will constitute the basis for operation and administration of the title III program.

(2) *By the State Attorney General.* The State plan and each amendment thereto shall include as an attachment a certificate by the State Attorney General or other appropriate State legal officer to the effect that the State educational agency named in the plan is a "State educational agency" as defined in § 118.2(u), that it has the legal authority ascribed to it in the State plan pursuant to § 118.7, and that all the provisions of the State plan may be carried out in the State.

(d) *Review by the State Governor.* In accordance with § 118.22(b)(2), the State plan and each amendment thereto shall include as an attachment the comments, if any, of the Governor of the State concerning coordination of title III programs and projects under the State plan with other State and Federal programs and projects, or a statement from the chief State school officer that the Governor has reviewed the plan but no comments were made.

(e) *Amendments.* Whenever there is any change in the content or administration of the program set forth in the approved State plan, or whenever there is any change in pertinent State law or in the organization, policies, or operations of the State educational agency which materially affects the program under the plan, the State plan shall be appropriately amended and such amendment shall be submitted to the Commissioner for his approval. (20 U.S.C. 844a(a)(1)(C))

§ 118.7 State educational agency.

(a) *Designation.* The State plan shall give the official name of the State educational agency which will be, either directly or through arrangements with other State or local public agencies, the sole agency responsible for administering the plan.

(b) *Authority.* The State plan shall set forth the authority of the State educational agency under State law to submit the plan and to administer and supervise the programs set forth therein.

(c) *Organization.* The State plan shall set forth the administrative organization and procedures of the State educational agency staff responsible for administration of the State plan, and the qualifications of all staff members involved in the administration of the State plan.

(d) *Fiscal control.* The State plan shall designate the officer or officers of the State educational agency who will have legal authority to receive all funds granted to the State and to authorize their expenditure or transfer to local educational agencies. The State plan shall also set forth the fiscal control and fund accounting procedures (consistent with Subpart E of the regulations in this part) under which the designated officer or officers will assure proper disbursement of and accounting for Federal funds paid to the State under title III of the Act. (20 U.S.C. 844a(b) (2) and (10))

§ 118.8 General plan provisions.

(a) *Assessment of educational needs.* The State plan shall identify the critical educational needs of the State as a whole and the critical educational needs of the various geographic areas and population groups within the State, and shall describe the process by which such needs were identified. This process shall be based upon the use of objective criteria and measurements and shall include procedures for collecting, analyzing, and validating relevant data and translating such data into determinations of critical educational needs. These determinations and the data upon which they are based shall be periodically reviewed and updated, and the State plan shall indicate the most recent date of such review and updating.

(b) *Developing evaluation strategies.* The State plan shall provide for and describe the objectives of, and the procedures to be used in the evaluation by the State advisory council, at least annually, of the effectiveness of the programs and projects funded under the State plan in meeting the purposes of title III of the Act.

(c) *Dissemination of information.* The State plan shall provide for and describe the objectives of and procedures to be used in the statewide dissemination of the results of evaluations performed under paragraph (a) of this section and of other information concerning those programs and projects which are determined through such evaluations to be innovative, exemplary, and of high quality.

(d) *Adoption and adaptation of promising practices.* The State plan shall provide for and describe the objectives of, and the procedures to be used in the adoption and adaptation within the State of promising educational practices developed through programs or projects funded under title III of the Act.

(e) *Reviewing local project applications.* The State plan shall (1) list and describe any criteria, other than those required by § 118.24(a), which the State educational agency will use in reviewing local project applications (including applications for guidance, counseling, and testing projects) submitted under § 118.23; and (2) provide that final action regarding the proposed final disposition of any local project application (or amendment thereof) shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing before a board or official designated by the State educational agency for such purpose, and specified in the State plan.

(f) *Commingling of funds.* The State plan shall set forth policies and procedures which assure that funds made available under title III of the Act for programs and projects for any fiscal year will not be so commingled with State or local funds as to lose their identity as title III funds.

(g) *State aid.* The State plan shall contain adequate assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under title III of the Act will not be taken into consideration. (20 U.S.C. 844a (b) (1)(A), (6), (9)(A), (12), and (13))

§ 118.9 Supplementary educational centers and services.

The State plan shall set forth a program for improving education in the State through grants to local educational agencies for supplementary educational centers and services, which program (a) shall be based upon the critical educational needs of the State as determined under § 118.8 (a) and (b) shall describe how funds paid to the State under title III of the Act will be used to demonstrate how such educational needs may be met. Such program shall be related to and coordinated with the program for testing under § 118.10 and the program of guidance and counseling under § 118.10 and the program of guidance and counseling under § 118.11. (20 U.S.C. 844a(b)(1)(A))

§ 118.10 Testing.

(a) The State plan shall set forth a program for testing students in the public and private elementary and secondary schools of the State or in the public and private junior colleges and technical institutes of the State. In so doing, the plan shall (1) describe the primary objectives of the program, (2) identify the grade levels of students to be tested, and (3) the types of tests to be utilized for the measurement of aptitudes and abilities.

(b) The testing program set forth in paragraph (a) of this paragraph shall include at least one test for students not beyond grade 12, and shall be utilized to (1) identify students with outstanding aptitudes and abilities; (2) provide such information about the aptitudes and abilities of students as may be needed in connection with the guidance counseling program required by § 118.11; and (3) provide such information as may be needed to assist other educational or training institutions and prospective employers in assessing the educational and occupational potential of students seeking admission to educational or training institutions or employment.

(c) In fulfilling the requirements of this section, the State educational agency may provide services at the State level and may make arrangements with local educational agencies or other appropriate local or State agencies, or contract with public or private nonprofit institutions, agencies, or individuals, for the provision of services consistent with the State's responsibilities under these regulations. (20 U.S.C. 843(b)(4), 844a(b)(1)(B)(1))

§ 118.11 Guidance and counseling.

(a) The State plan shall set forth a program of guidance and counseling designed to improve such services at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of the State and, to the extent required by § 118.15, in the private elementary and secondary schools of the State. Such program shall serve to advise students regarding courses of study best suited to their abilities, aptitudes and skills, the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, as well as to encourage students with outstanding aptitudes and abilities to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions. Such programs may include short-term training sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in the State.

(b) Guidance and counseling services under the State plan shall be provided by qualified counselors through appropriate individual and group processes. Such processes shall be coordinated with other pupil personnel services and guidance and counseling resources both within and outside the school setting, and shall include referral assistance, working with other staff members in planning curriculum content and changes, and consulting both teachers and parents with regard to the learning and developmental needs of pupils.

(c) The program set forth under paragraph (a) of this section shall make provision for supervision and leadership activities by the State educational agency with regard to the establishment, maintenance, and improvement of guidance and counseling services under the State plan. Such activities shall include the assessment of other Federal and State programs (such as titles I and V of the

Act, part B of the Education of the Handicapped Act, and the Vocational Education Act of 1963) where there may be need for State level supervision and leadership with respect to guidance and counseling, and the development of procedures for determining how these various programs and sources of funds can be coordinated to provide for strong leadership in the area of guidance and counseling.

(d) In addition to the activities set forth in paragraph (c) of this section, the program set forth under paragraph (a) of this section may also include the provision of services at the State level through arrangements (including project grants under paragraph (e) of this section) with local educational agencies or other appropriate local or State agencies, or through contracts with public or private nonprofit institutions, agencies, or individuals which are consistent with the State's responsibilities under these regulations.

(e) Project grants may be made to local educational agencies under this section for the following purposes: (1) Planning programs and projects designed to provide the services and activities described in subparagraphs (2) and (3) of this paragraph, including pilot projects designed to test the effectiveness of such plans; (2) establishing or expanding innovative and exemplary guidance and counseling programs and projects for the purpose of stimulating the adoption of new programs; and (3) establishing, maintaining, and improving guidance and counseling services and activities, especially through new and improved approaches consistent with the purposes of title III of the Act. (20 U.S.C. 843(b)(4), 844a(b)(1)(B)(ii))

§ 118.12 Equitable distribution of assistance.

The State plan shall set forth criteria for achieving an equitable distribution of assistance made available under title III of the Act and these regulations. Such criteria shall be based on a consideration of (a) the size and population of the State, (b) the geographical distribution and density of the population within the State, (c) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities to be provided under the plan, and (4) the relative financial abilities of local educational agencies within the State to provide such services and activities. The special factors in this section shall be considered in conjunction with the quality criteria set forth in § 118.24 to insure that their application will not result in the approval by the State educational agency of inferior programs or projects. (20 U.S.C. 844a(b)(3))

§ 118.13 Special consideration for certain local educational agencies.

The State plan shall provide for giving special consideration, in approving applications for title III programs and projects, to applications submitted by local educational agencies (a) that are making a reasonable tax effort but are unable to meet critical educational needs (including preschool and bilingual education) because some or all of its schools are seriously overcrowded, obsolete, or unsafe; or (b) whose proposed program or project was planned with funds made available under title III of the Act. The provisions of this section shall be applied in conjunction with the quality criteria set forth in § 118.24 to insure that their application will not result in the approval by the State educational agency of inferior programs or projects. (20 U.S.C. 844a(b)(4) and (5))

§ 118.14 Percentage requirements regarding uses of funds.

The State plan shall provide that, of the funds made available under title III of the Act for any fiscal year to carry out the State plan:

(a) An amount equal to at least 50 percent of such funds shall be expended for planning, establishing, and expanding innovative and exemplary programs and activities in accordance with § 118.25;

(b) An amount equal to at least 15 percent of such funds shall be expended for special programs or projects for the education of handicapped children in accordance with § 118.26; and

(c) For fiscal years ending prior to July 1, 1973, an amount equal to at least 50 percent of the amount expended by the State under title V–A of the National Defense Education Act of 1958 (20 U.S.C. 401 et seq.) from funds appropriated under such title for fiscal year 1970 shall be expended for guidance, counseling, and testing programs of the types set forth in §§ 118.10 and 118.11. (20 U.S.C. 844a(b)(7) and (8), 844a note)

§ 118.15 Participation by private school children.

(a) The State plan shall contain satisfactory assurances that each local educational agency receiving funds under title III of the Act will provide for the effective participation in its title III program or projects, on an equitable basis, by children enrolled in private schools in the areas to be served whose educational needs are of the type which the program or project is designed to meet. The number of such children to be served, in relation to the total number of such children, shall be consistent with the number of public school children to be served in relation to the total number of public school children in the area served with educational needs of the type the program or project is designed to meet.

(b) Whenever practicable, educational services shall be provided to private school children on publicly controlled premises. Any project to be carried out in public facilities which involves joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

(c) Provisions for serving private school children shall not include (1) the payment of salaries to teachers or other employees of private schools except for services performed outside regular hours of duty and under public supervision and control, (2) financing of the existing level of instruction in private schools, (3) the placement of equipment on private school premises other than portable or mobile equipment which is capable of being removed from the premises each day, or (4) the construction of facilities for private schools. None of the funds made available under the Act may be used for religious worship or instruction.

(d) The State educational agency shall require that every project application submitted to it by a local educational agency under § 118.23 shall describe how the local educational agency will fulfill the requirements of paragraphs (a), (b), and (c) of this section. This description shall contain information indicating: (1) The number of private schools in the area to be served by the project and the number of children enrolled in such schools in the grades to be served by the project; (2) the existence of any factors which limit the appropriateness of the project for private school children; (3) the manner in which and extent to which representatives of private school children participated in the development of the project proposal (including participation in the determinations required under subparagraph (2) of this paragraph; (4) the provisions which have been made for effective liaison with representatives of private school children in regard to operation and review of the project; (5) the places at which and methods by which private school children will be served in accordance with the requirements of paragraphs (b) and (c) of this section; and (6) the differences, if any, in the kind and extent of services to be provided private school children as compared with those to be provided public school children, and the reasons for such differences. (20 U.S.C. 844(b)(2)(B), 885)

§ 118.16 Reports and records.

The State Plan shall provide that the State educational agency will submit to the Commissioner reports in accordance with §§ 118.53 and 118.54; and keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports, including those records required by §§ 118.41(c) and 118.56.

§ 118.17 Maintenance of fiscal effort.

(a) The State plan shall set forth policies and procedures for assuring that funds made available under title III of the Act for any fiscal year will be used to supplement and, to the extent practical, increase (1) the fiscal effort which each local educational agency receiving title III funds would have made in the absence of such funds, for that fiscal year for educational purposes, as required by section 305(b)(9) of the Act (20 U.S.C. 844a(b)(9)), and (2) the level of funds which each local educational agency receiving title III funds and each participating school would have made available in the absence of such funds, for that fiscal year for the purpose described in section 303(b) of the Act, as required by

section 304(a)(3) of the Act, 20 U.S.C. 844(a)(3)).

(b) For the purposes of paragraph (a)(1) of this section, fiscal effort of a local educational agency for educational purposes shall be determined by the State educational agency on the basis of the amount of expenditures per pupil of the local educational agency from State and local funds; or in the event of a decrease of such expenditures, on the basis of the ratio between the total expenditures of the local educational agency from State and local funds and the wealth of the local educational agency as measured by the equalized assessed valuation of taxable property, per capita income, or other such indices as appropriate. (20 U.S.C. 844(a)(3), 844a (b)(9)(B))

§ 118.18 Approval of State plans.

(a) *Full approval or disapproval.* The Commissioner will review each State plan or amendment thereto submitted under § 118.7, and approve those plans and amendments which he determines to meet the requirements of title III of the Act and these regulations. Except as provided in paragraph (b) of this section, the Commissioner will disapprove a plan which fails to comply with such requirements.

(b) *Partial approval.* If the Commissioner finds that a State plan submitted under § 118.6 for any fiscal year ending prior to July 1, 1973, is in substantial compliance with title III of the Act and these regulations, but fails to adequately provide for one of the programs required by section 305(b) of the Act (20 U.S.C. 844a(b)) or for some specific requirement (such as participation of private schoolchildren) pertaining to such programs, or is otherwise unapprovable in any other identifiable part he may approve that part of the plan which he determines to be in compliance with title III of the Act and the regulations in this part. In such a case, the Commissioner will make available to the State that part of its allotment which he determines to be necessary to carry out the approved part of its State plan. The remainder of the amount the State is eligible to receive may be made available to the State only when the unapproved portion of its State plan is so modified as to bring the plan into compliance with title III of the Act and the regulations in this part. The amount made available to a State pursuant to this subsection may not be less than 50 percent of the maximum amount which the State is eligible to receive under paragraph (f) of this section.

(c) *Effect of State plan.* The State plan, as approved by the Commissioner under this section, will constitute the basis on which Federal grants are made, and the basis for determining the propriety of expenditures of grant funds. The administration of the title III program shall be kept in conformity with the approved plan.

(d) *Effective date of the State plan.* The effective date of the State plan or any amendment thereto shall be the date on which such plan or amendment is received by the Commissioner in substantially approvable form, but no earlier than July 1 of the fiscal year for which the plan or amendment is submitted.

(e) *Notice and opportunity for hearing.* No final action under this section other than one of full approval will be taken by the Commissioner until he first notifies the State educational agency of his proposed action and affords the State educational agency a reasonable opportunity for a hearing.

(f) *Maximum funding level.* A State whose State plan has been approved under this section for any fiscal year may receive, for the purpose of carrying out such plan, an amount not in excess of 85 percent of its allotment under section 302 of the Act. (20 U.S.C. 844a (b), (c), (d), (e)(1))

§ 118.19 Inability or failure to serve private school children.

(a) In any State in which the Commissioner determines under § 118.18(b) that the State plan is approvable except that (1) no State agency is authorized by law to provide, or (2) there has been a substantial failure to provide, for effective participation on an equitable basis by private schoolchildren enrolled in any one or more private elementary or secondary schools in the areas served by programs or projects funded under title III of the Act, as required by § 118.10(a), § 118.11(a), or § 118.15, the Commissioner will arrange for the provision of title III services to such children on an equitable basis.

(b) The costs of services provided in any fiscal year under paragraph (a) of this section will be paid out of the affected State's allotment for that fiscal year. In determining the amount to be withheld, the Commissioner will take into account (1) the number of private schoolchildren in the affected area or areas who are excluded from effective participation in title III programs or projects and who, except for such exclusion, might reasonably have been expected to participate; (2) the number of teachers that would reasonably have been required to serve such children, and (3) the nature and extent of services being provided to public schoolchildren in the affected area by the programs or projects in which private schoolchildren are denied effective participation.

(c) In any case where the State alleges that no State agency is authorized by law to provide for the effective participation of private schoolchildren as required by § 118.10(a), § 118.11(a), or § 118.15, the State shall provide the Commissioner with a written statement signed by the State Attorney General or other appropriate State legal officer setting forth the constitutional and statutory provisions, and case law, which in his opinion prevent the State from so serving private schoolchildren.

(d) In determining whether there has been a "substantial failure" under paragraph (a) of this section, the Commissioner (1) will first consult the affected State educational agency and ask it to provide information concerning the alleged failure, and (2) will consider all acts or omissions of the State, or a local educational agency or other political subdivision thereof, or of any individual acting for or on behalf of such entities, in the process of assessing educational needs and planning, approving, conducting, and monitoring programs and projects under title III of the Act and these regulations, which have the effect of (*a*) preventing, discouraging, or otherwise limiting in any manner the effective participation by any eligible private school child in the operation of the program or project serving the area in which his private school is located, or (*b*) not affording private school representatives the opportunity for effective participation in the planning and development of any program or project in which private schoolchildren are eligible to participate. (20 U.S.C. 845(f))

§ 118.20 Operational noncompliance.

Whenever the Commissioner, after affording the State educational agency reasonable notice and opportunity for a hearing, finds that in the operation or administration of its State plan there has been a failure to comply substantially with (a) any provision of title III of the Act and the regulations in this part, (b) any requirement set forth in the plan of that State as approved under § 118.18, or (c) any requirement set forth in an application of one of the State's local educational agencies as approved under § 118.23, he will notify the State educational agency that further payments will not be made to the State under title III of the Act, or that the State educational agency may not make further payments under title III of the Act to specified local educational agencies affected by the failure, until he is satisfied that there is no longer any such failure to comply. (20 U.S.C. 844a(e)(2))

Subpart D—Program Requirements

§ 118.21 Purpose.

This subpart sets forth various program requirements to which each State educational agency shall adhere in administering the educational programs described in its approved State plan and in implementing the provisions of such plan. The policies, procedures, and criteria developed by the State under this subpart shall be set forth in writing and shall be available for inspection at reasonable times and places by the Commissioner or his delegate and by interested parties in the general public. (20 U.S.C. 844, 844a (a)(1) and (b))

§ 118.22 General requirements.

(a) *Long-range strategy for advancing education.* The State shall develop a long-range strategy for advancing education in the State in ensuing years through programs and projects funded under title III of the Act. Such strategy shall be directed toward the critical educational needs of the State as periodically assessed under § 118.9(a) and shall provide for the coordination of title III programs and projects with other public and private programs and projects as required by paragraph (b) of this section.

(b) *Coordination with other aid programs.* (1) To the extent not inconsistent with the prohibition against commingling of funds in § 118.8(e), the State shall establish effective procedures for coordinating the development and operation of programs and projects carried out under title III of the Act and these regulations with other public and private programs having the same or similar purposes. (2) The State plan and amendments thereto which the State educational agency submits to the Commissioner under § 118.6 and the periodic reports which it submits to the Commissioner under §§ 118.53 and 118.54 shall first be submitted to the Governor of the State for his review and comments (if any) on the relationship of title III programs and projects to, and coordination with, State comprehensive plans and State plans in related Federal programs. The Governor shall be given a period of up to 45 days, if necessary, to make such comments. His comments shall accompany the plan, amendment, or report when submitted to the Commissioner, or, if the Governor has no comments, a statement to this effect from the State educational agency official authorized to submit the plan shall accompany the documents.

(c) *State leadership.* The State educational agency shall establish policies and procedures for appropriate professional staff development of State and local administrative, supervisory, instructional, and supporting personnel involved in developing, conducting, or monitoring programs or projects under title III of the Act, including those personnel involved in program or projects for handicapped children.

(d) *On-site evaluation of projects.* The State educational agency shall develop procedures and criteria for the on-site evaluation, at least annually, of all title III projects in the State. Such procedures shall indicate the role of the State educational agency staff in the evaluation process and the relationship between its functions under this subsection and the functions of the State advisory council under §§ 118.4(a)(3) and 118.8(a). Such procedures shall also provide for incorporation into the affected projects of recommendations made as a result of on-site evaluations and for followup methods to insure proper implementation.

(e) *Construction.* The State educational agency shall establish (1) criteria for determining the conditions under which the construction of facilities for use in a title III program or project is consistent with the educational programs set forth in the State plan and necessary to the efficient operation of the program or project, and (2) procedures for the submission of construction requests by local educational agencies and the review of such requests, in accordance with the provisions of § 118.42 and the criteria established under paragraph (e)(1) of this section, by the State educational agency and other interested State agencies.

(f) *Conflicts of interests.* The State educational agency shall establish procedures which insure that no board or staff member of the State educational agency, the State advisory council, or a local educational agency will participate in or make recommendations concerning an administrative decision or action involving a program or project under title III of the Act, if such decision or action may reasonably be expected to result in any fee, royalty, commission, remuneration, or other benefit to him or to any member of his immediate family.

(g) *List of projects funded.* The State educational agency shall maintain a list identifying each local project it is funding under title III of the Act, which shall include for each such project (1) the project number, (2) a title or description by which the project may be easily identified, (3) the amount of the current grant, (4) the proposed level of funding for the portion of the project period remaining after expiration of the current grant, (5) the amount of grant funds to be expended in each project for guidance and counseling under § 118.11 or for testing under § 118.10, and (6) the amount of grant to be expended in each project for the education of handicapped children under § 118.26 broken down by type of handicap.

(h) *Participation of students in junior colleges and technical institutes.* Participation in title III programs or projects by students enrolled in junior colleges and technical institutes in a State shall be limited to participation in guidance, counseling and testing programs or projects established under §§ 118.10 and 118.11 of the regulations in this part (20 U.S.C. 843(b)(4), 844a (a)(1) and (b)(1)(B) (i) and (ii), 883)

§ 118.23 Applications from local educational agencies.

(a) *Solicitation and submission.* The State educational agency shall establish procedures to stimulate the submission of applications for funds under title III of the Act by all local educational agencies in the State that have educational needs of the type which the State has identified and determined to serve under § 118.9. Such procedures shall include (1) the statewide dissemination of information concerning the purposes and provisions of title III of the Act and these regulations and of the educational program which the State proposes to conduct under its State plan; (2) the establishment of cutoff dates for submission of applications and notifications to all local educational agencies of such dates; and (3) the development of solicitation techniques designed to insure that title III funds are equitably distributed as required by § 118.12 and that applications are submitted by local educational agencies deserving special consideration under § 118.13. The State shall not establish methods or procedures which have the effect of excluding the eligibility of any otherwise eligible local educational agency to apply for and receive grants under this part.

(b) *Content of applications.* Each project application submitted to the State educational agency shall set forth a proposal for carrying out one or more of the purposes described in section 303(b) of the Act (20 U.S.C. 843(b)) in accordance with the provisions of title III of the Act and these regulations. such applications shall:

(1) Provide that the services and activities for which title III funds are sought will be administered by or under the supervision of the applicant, and provide for (*a*) such methods of administration as are necessary for the proper and efficient operation of the project, and (*b*) such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for title III funds paid to the applicant;

(2) Set forth policies and procedures which assure that funds made available for the project for any fiscal year will supplement and not supplant State and local funds in accordance with § 118.17(a);

(3) Set forth, in the case of an application which includes construction as part of the proposed project, the assurances required by § 118.42(e) and such other information as the State educational agency shall require in fulfilling the requirements of § 118.22(e);

(4) Provide for making such financial reports, annual reports, and other reports, and for keeping and allowing access to such records relating thereto, as the State educational agency may reasonably require to assure compliance with the reports and records requirements in §§ 118.54 to 118.56 and to otherwise carry out its functions under title III of the Act and these regulations;

(5) Set forth the information regarding participation of private schoolchildren which is required by § 118.15(d); and

(6) Contain such other information as the State educational agency may reasonably require to apply the criteria for reviewing project applications set forth in § 118.24.

(c) *Panel of experts.* The State educational agency shall establish a panel of experts, consisting of persons who are not officers or employees of the State educational agency, or the State advisory council to review all local project applications prior to their approval or other disposition. The State educational agency shall determine the number of experts to be utilized and the qualifications to be required of such experts (including one or more experts in the education of handicapped children and one or more experts in guidance counseling and testing) and shall establish procedures for selecting the panel.

(d) *Approval of applications.* The State educational agency shall establish procedures for review and disposition of local project applications in accordance with the requirements of title III of the Act and these regulations. Such procedures shall provide for coordinating the roles of the State advisory council (under

§ 118.4(a)(2)) and the panel of experts (under paragraph (c) of this section) with the role of the State educational egency. Such procedures shall also assure that no application will be approved or renewed by the State educational agency unless it is specifically found to meet the requirements for participation of private school children under § 118.15 and each of the requirements of paragraph (b) of this section, and has been evaluated in terms of the criteria set forth in § 118.24. (20 U.S.C. 844)

(e) *Hearings.* The State educational agency shall develop procedures for a hearing in accordance with § 118.8(d)(2) for any applicant whose application (or amendment thereto) the State educational agency proposes not to approve. (20 U.S.C. 844)

§ 118.24 Criteria for review of project applications.

(a) *General.* The State educational agency shall establish the criteria to be used in reviewing project applications from local educational agencies under § 118.9. Such criteria shall be applied in conjunction with the special criteria developed by the State educational agency under §§ 118.12 and 118.13, and shall include the following criteria for determining the extent to which the proposal includes:

(1) Evidence that it is designed to demonstrate solutions to identified critical educational needs and will substantially increase the educational opportunities of children in the area of the State to be served;

(2) Provisions for the development of concepts, practices, and techniques which can be adapted or adopted elsewhere;

(3) Promising concepts or practices recognized as unique, original, unusual, innovative, or exemplary;

(4) Concepts or practices which are economically feasible and effective;

(5) Evaluation strategies and procedures based on valid methodology which will provide evidence of the extent to which performance of the participants is improved;

(6) Performance objectives which are measurable, and appropriate activities which facilitate achieving them;

(7) An awareness of information concerning similar programs, relevant research findings, and views of recognized experts;

(8) Provisions for staff with professional qualifications adequate to achieve the project's stated objectives;

(9) Provisions for budgeted expenditures for adequate and appropriate facilities, equipment, and materials which show a direct relationship in facilitating the achievement of the stated objectives;

(10) Documentation that in the planning of the project there has been, and in the operation and evaluation of the project there will be, (*a*) utilization of the best available talents and resources and (*b*) participation of students, teachers, parents, school administrative personnel, private nonprofit school representatives, and other persons including those with low income, broadly representative of the cultural and educational resources of the area to be served;

(11) Provisions for dissemination of information about the proposed project which are appropriate and adequate for the area to be served.

(b) *Guidance and counseling.* The State educational agency shall establish the criteria to be used in reviewing applications for guidance and counseling programs and projects under § 118.11. A State educational agency may elect to apply all criteria in paragraph (a) of this section to guidance and counseling programs and projects. However, at least those criteria set forth in paragraph (a)(4) through (11) of this section shall be applicable to all such programs or projects.

(c) *Additional criteria.* If the State educational agency establishes criteria for the review of project applications in addition to those specified in paragraphs (a) and (b) of this section, it shall list such additional criteria in its State plan in accordance with § 118.8(d)(1). (20 U.S.C. 844)

§ 118.25 Innovative and exemplary projects.

The State educational agency shall establish policies and procedures under which it will use at least 50 percent of the funds that it receives to carry out its State plan in each fiscal year to:

(a) Plan for and take other steps leading to the development of innovative and exemplary programs and projects, including pilot projects designed to test the effectiveness of such plans; and

(b) Establish or expand innovative and exemplary programs and projects (including dual enrollment programs and the lease or construction of necessary facilities) for the purpose of stimulating the adoption of new educational programs, including special programs for handicapped children and programs such as those described in section 503(4) of the Act, in the schools of the State. (20 U.S.C. 844a(b)(7))

§ 118.26 Projects for handicapped children.

The State educational agency shall establish policies and procedures under which it will use at least 15 percent of the funds that it receives to carry out its State plan in each fiscal year for: (a) Planning programs or projects referred to in paragraphs (b) and (c) of this section, or (b) establishing or expanding innovative and exemplary educational programs for the purpose of stimulating the adoption of new educational programs to demonstrate ways to meet the special needs of handicapped children; or (c) establishing, maintaining, operating or expanding services or activities which utilize new and improved approaches which demonstrate ways to meet the special educational needs of handicapped children. The State educational agency shall also establish procedures which assure that such activities will be coordinated with other Federal, State, and local programs and projects for the education of handicapped children, such as title I of the Act, the Education of the Handicapped Act, and the Vocational Education Act of 1963. The State shall also establish procedures whereby appropriate State education agency personnel responsible for the education of handicapped children shall review and make recommendations relating to all parts of the State plan which pertain to handicapped children. (20 U.S.C. 844a(b)(8))

§ 118.27 Amendment, continuation, and termination of projects.

(a) *Project period.* The State educational agency shall establish a project period for projects funded under title III of the Act and shall establish procedures for continuing the funding of promising projects throughout the project period, subject to the availability of title III funds, on the basis of evaluations under § 118.22(d) and other periodic reviews which demonstrate that the project is being operated in compliance with all the requirements of title III of the Act and these regulations.

(b) *Amendment of project applications.* The State educational agency shall establish procedures for reviewing requests from grantees to amend project applications and alter projects during the project period and for assuring that such amendments and alterations are fully consistent with the requirements of title III of the Act and these regulations. Whenever the proposed amendment or alteration would involve significant changes in the content, design, or funding level of the project, the review procedures utilized shall conform to the requirements of § 118.23(d).

(c) *Costs of continuation.* If the costs to the State for any fiscal year of continuing projects under this section would exceed the amount of funds available to the State to carry out its State plan for that fiscal year, the State educational agency may request that the Commissioner provide funds to meet such excess costs under section 306 of the Act (20 U.S.C. 344b) and Part 126 of this title. The Commissioner will consider such a request only if he specifically determines that the project requiring funds is worthy of continuation and holds promise of making a substantial contribution to the solution of critical education problems common to all or several States.

(d) *Termination of projects.* The State educational agency shall establish procedures for termination, during the project period, of unsuccessful programs and projects which are not operating in substantial compliance with (1) any provision of title III of the Act and these regulations or (2) any requirement set forth in the approved State plan or in the approved project application. In the event of such termination the grantee shall be afforded reasonable notice of the proposed action and opportunity for a hearing. (20 U.S.C. 844)

Subpart E—Fiscal Procedures

§ 118.31 Allotment availability.

(a) *General.* Funds alloted to States under title III of the Act for any fiscal

year shall be available for use by States (as determined pursuant to paragraphs (a) and (b) of this section) only during such fiscal year, except that the following allotments (or portions thereof) shall also be available for use during the succeeding fiscal year (unless otherwise provided for in appropriation acts):

(1) Funds realloted to States pursuant to section 302(d) of the Act.

(2) Funds allotted to States for any fiscal year beginning on July 1, 1969 and ending prior to July 1, 1973.

(b) *Use for State-level activities.* A use of funds under title III of the Act for the administration of State plans (including the administration of guidance, counseling, and testing programs), the activities of State advisory councils, and evaluation and dissemination activities will be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of equipment and facilities shall be considered to have been used as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively.

(c) *Use by State agency for local projects.* A use of funds under title III of the Act for local projects shall be determined by the issuance of a grant award document by the State educational agency to a local educational agency. Funds so obligated by the State educational agency shall remain available for expenditure by the local educational agency during the period for which the grant was awarded, as determined pursuant to paragraph (d) of this section, which period shall not extend beyond the end of the fiscal year following the fiscal year in which the grant is awarded. The obligation recorded by the State educational agency shall be adjusted and the grant award amended whenever the amount obligated is determined to be at variance with amounts actually expended by the local educational agency.

(d) *Expenditures by local educational agencies.* For the purpose of paragraph (c) of this section, the expenditure of funds under title III of the Act by local educational agencies shall be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or property, the construction of school facilities, or the performance of work; except that funds for personal services, for services performed by public utilities, for travel, and for rental of equipment and facilities shall be considered to have been expended as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively. In the case of funds to be used for administrative activities in connection with the completion of a project, such as evaluation and auditing activities, expenditures may also be determined on the basis of documentary evidence of a specific reservation of funds for the purpose. (20 U.S.C. 1225(b), 31 U.S.C. 200)

(e) *Liquidations of obligations.* An obligation entered into by the State educational agency pursuant to paragraph (b) of this section or LEA pursuant to paragraph (d) of this section and payable out of funds under title III of the Act shall be liquidated by the end of the fiscal year following the fiscal year in which the obligation was incurred unless prior to the end of that following fiscal year the State educational agency determines for good cause that the time for liquidating a particular obligation will be extended and so notifies the Commissioner.

§ 118.32 Grant awards.

In all cases where the State educational agency makes grants under title III of the Act to local educational agencies, it shall award such grants for specified budget periods on the basis of applications which have been approved in accordance with § 118.23. All grant awards shall be in writing and shall set forth the amount of funds granted and the budget period during which such funds are available for expenditure, and shall specify the anticipated length of the project period. (20 U.S.C. 843(a))

§ 118.33 Federal fiscal audits.

All records of the State educational agency and of local agencies receiving title III funds which relate to program or administrative expenditures under title III of the Act shall be subject to audit by the Department and the Comptroller General of the United States, or his duly authorized representative, to assure that the State has properly used and accounted for Federal funds. Such records shall be maintained and be accessible in accordance with § 118.55, and otherwise be adequate to permit an accurate and expeditious audit of the State's title III program. (20 U.S.C. 1232c)

§ 118.34 Allowable expenditures for State and local educational agencies.

(a) *General.* Expenditures for which funds provided under title III of the Act may be used are those which are (1) consistent with title III of the Act, these regulations, and the provisions of the State plan, and reasonably necessary to the operation of title III programs and projects, (2) incurred on or after the effective date of the State plan under § 118.17(d), and (3) either direct costs which can be identified specifically with the title III program or project benefited, or indirect costs which are incurred for a common or joint purpose benefiting more than one cost objective but are allocable to a title III program or project on the basis of relative benefit received, as computed in accordance with a plan submitted by the State and approved by the Department pursuant to OMB Circular No. A–87, implementing instructions of the Department, and the provisions of Grants Administration Manual Chapter 5–60, *Costs Principles for State and Local Government Agencies* and OMB Circular A–87. They may be ordered from the Government Printing Office as GPO 894–523. The Act includes the following specifications that title III funds must be used to supplement and not to supplant:

Whenever direct costs are determined to be supplanting and not supplementary, the associated indirect costs (computed and negotiated in accordance with Office of Management and Budget Circular No. A–87) are also deemed to be supplanting and not supplementary.

(b) *Specific expenditures allowed.* To the extent consistent with paragraph (a) of this section, expenditures for which funds provided under title III of the Act may be used are cited in the Grants Administration Manual Chapter 5–60 and OMB Circular No. A–87. Among allowable expenditures are the following:

(1) Establishing and maintaining accounting, auditing, and other information systems required for the management of programs and projects under title III of the Act;

(2) Reasonable compensation for personal services of employees and consultants, including wages, salaries, and supplementary compensation and benefits;

(3) Personnel administration and payroll preparation;

(4) Insurance coverage, to the extent consistent with the general policies of the State educational agency or local educational agency and with sound business practice; and the bonding of employees who handle title III funds;

(5) Communications services;

(6) The acquisition of consumable supplies and printed and published materials for the use of persons administering, supervising, or participating in title III programs or projects;

(7) Printing and reproduction;

(8) Travel and transportation;

(9) Data processing services;

(10) Acquisition (including rental) of office equipment and other equipment required for supervisory and program functions;

(11) Rental of office space in privately or publicly owned buildings, provided that:

(*a*) The expenditures for the space are necessary and properly related to the efficient administration of the program;

(*b*) The State will receive the benefits of the expenditures during the period of occupancy commensurate with such expenditures;

(*c*) The amounts paid are not in excess of comparable rental in the particular locality;

(*d*) The expenditures represent a current cost; and

(*e*) In the case of a publicly owned building, like charges are made to other State or local agencies occupying similar space for similar purposes.

(12) Utilities, security, janitorial, and similar services to the extent not otherwise included in rental or other charges for space;

(13) Maintenance and repair of property to the extent necessary to keep such property in an efficient operating condition;

(14) Renovation and minor remodeling of previously completed building

space, where such space is needed for the administration or operation of title III programs or projects and renovation or remodeling is necessary to make the space suitable for such use; and

(15) Construction or major structural alteration of buildings and facilities, where undertaken by a local educational agency with funds provided under section 307(a) of the Act after having been specifically approved by the State educational agency under § 118.22(e) of the regulations in this part.

(c) *Proration of costs.* In situations where an expenditure otherwise allowable under paragraphs (a) and (b) of this section is incurred in part for purposes other than the administration or operation of programs and projects under title III of the Act, title III funds shall be available only for that portion of the cost which is fairly attributable to the administration or operation of title III programs and projects. The State educational agency shall establish procedures for prorating costs and for maintaining fully documented records to substantiate prorations of costs for items such as salaries, travel, rent, and equipment. In the case of proration of costs for salaries, such records shall be documented on a before-and-after-the-fact basis. All such records shall be maintained in accordance with § 118.55. (20 U.S.C. 1231c(b); BOB Circular No. A–87, May 9, 1968)

§ 118.35 Accounting for guidance, counseling, and testing expenditures.

(a) Funds expended for the continuation of guidance, counseling, and testing projects initiated under title III of the Act (but not under title V–A of the National Defense Education Act of 1958) prior to fiscal year 1971 shall not be considered in computing the amount of funds which are required to be expended for such purposes under § 118.14(c) of the regulations in this part.

(b) Allowable expenditures incurred by the State educational agency in administering guidance, counseling, and testing programs or projects under the State plan shall be met with administrative funds available to the State under section 307(b) of the Act (20 U.S.C. 845(b)), (20 U.S.C. 844a note, 845 (a) and (b))

Subpart F—Equipment and Construction

§ 118.41 Acquisition, maintenance, and disposition of equipment.

(a) *Use of equipment.* All equipment acquired under title III of the Act shall be used during the expected useful life of the equipment for the purposes specified in the approved project application, or after the expiration of the project for the purposes set forth in section 303(b) of the Act.

(b) *Title and control of equipment.* Title to equipment acquired with funds made available under title III of the Act shall be vested in, and retained by, a State or local educational agency, and such equipment shall be subject to the administrative control of the State or local educational agency at all times until the end of its useful life or its disposition, whichever is earlier.

(c) *Inventories.* Each State and local educational agency shall maintain inventories of all items of equipment acquired with title III funds which have an initial acquisition cost of $300 or more per unit. Such inventories shall be maintained for the useful life of the equipment or until its disposition, whichever is earlier, and records of such inventories shall be kept intact and accessible for 3 years thereafter.

(d) *Maintenance and repair.* Each State and local educational agency shall make reasonable provision for the maintenance and repair of equipment acquired with title III funds, and shall be responsible for replacing or repairing (with State or local funds) equipment that is lost, damaged, or destroyed due to the negligence of the State or local agency.

(e) *Disposition of equipment.* Whenever equipment acquired with title III funds is no longer used for the purposes prescribed in paragraph (a) of this section or is sold and the proceeds from such sale are not used for such purposes, the Federal Government shall be credited with its proportionate share of the value of such equipment at the time of such diversion or sale. Such value shall be determined on the basis of the sale price in the case of a bona fide sale or the fair market value in the case of a diversion of use. (20 U.S.C. 844(a))

§ 118.42 Grants involving construction.

Where applications are submitted under title III of the Act by local educational agencies for programs or projects which involve construction, such construction shall be approved by the State educational agency only if:

(a) The applicant has notified the State and regional or local clearinghouses designated under OMB Circular A–95, of its intent to submit an application, and

(b) The applicants have included with the application when submitted to the State educational agency:

(1) Any comments made by or through the clearinghouse(s) together with a statement that such comments have been considered prior to submission of the application; or

(2) A statement that the A–95 clearinghouse procedures have been followed and that no comments have been received; and

(c) The State has complied with the applicable provisions of the National Environmental Policy Act of 1969 (Public Law 91–190, 42 U.S.C. section 4321–4347) and guidelines issued pursuant thereto by the Council on Environmental Quality (36 F.R. 7724); and

(d) The application contains the following assurances and provisions:

(1) The applicant has or will have a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and possession of the facilities for not less than the expected useful life of the facility;

(2) The final working drawings and specifications will be submitted to the State educational agency before the construction is approved and the project is placed on the market for bidding;

(3) Construction approved pursuant to the project proposal will be undertaken promptly;

(4) In developing plans for school facilities, the local and State codes with regard to fire and safety will be observed, and in situations where local and State codes do not apply, recognized codes shall be observed;

(e) In planning the construction of school facilities, the applicant will, in accordance with Executive Order No. 11296 of August 10, 1966 (33 U.S.C. 701 note) and such rules and regulations as may be issued by the Department of Health, Education, and Welfare to carry out its provisions, evaluate flood hazards in connection with such school facilities and, as far as practicable avoid the uneconomic hazardous, or unnecessary use of flood plains in connection with such construction;

(f) In planning the construction of school facilities, the applicant will, in accordance with Executive Order No. 11288 of July 2, 1966 (33 U.S.C. 466 note) and such rules and regulations as may be issued by the Department to carry out its provisions, evaluate the effect of construction and operation of such school facilities on water pollution and, as far as practicable, avoid such harmful effects as may exist;

(g) Architectural or engineering supervision and inspection will be provided at the construction site to insure that the completed work conforms to the approved plans and specifications;

(h) Representatives of the State educational agency will have access at all reasonable times, for the purpose of inspection, to all construction work being done with title III funds, and the contractor will be required to facilitate such access and inspection;

(i) The grantee will furnish progress reports and such other information relating to the proposed construction and the grant as the State educational agency may require;

(j) Except as otherwise provided in the regulations issued by the Administrator of General Services (41 CFR Part 101–17) to implement Public Law 90–480 (42 U.S.C. ch. 51), all school facilities designed, constructed or altered with funds made available under title III of the Act shall be so designed, constructed, or altered as to be in accordance with the minimum standards contained in "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable By the Physically Handicapped" approved by the American Standards Association, Inc. (Subsequently the United States of America Standards Institute) on October 31, 1961;

(k) Reasonable provision has been made, consistent with the other uses to be made of the facilities for areas in such

facilities which are adaptable for artistic and cultural activities;

(l) In developing plans for the construction, the applicant has given and will give due consideration to excellence of the architecture and design and to the inclusion of works of art, for which funds under title III of the Act will be available for not in excess of 1 percent of the cost of the project;

(m) Upon completion of the construction, title to the facilities will be in and retained by a State or local educational agency, and the building will be operated and used for the educational and related purposes for which it was constructed for a period of not less than 20 years;

(n) All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under title III of the Act shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276–5); and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act (40 U.S.C. 327–333), and such contractors and subcontractors shall comply with the regulations in 29 CFR Part 3 and 29 CFR 5.5 (a) and (c);

(o) All contracts for construction work or modification thereof, as defined in Executive Order No. 11246 shall incorporate the nondiscrimination clause prescribed by Executive Order No. 11246 of September 24, 1965 (42 U.S.C. 2000e note); and the State or local educational agency undertaking the construction shall otherwise comply with the requirements of section 301 of said Executive order.

(p) Manner of construction: Construction undertaken with funds under title III of the Act shall be functional, shall be undertaken in an economical manner consistent with the architectural and design considerations in paragraph (a) (4), (9), (10), and (11) of this section, and shall not be elaborate in design or extravagant in the use of materials in comparison with school facilities of a similar type constructed in the State within recent years.

(q) All contracts for construction shall be awarded to the lowest qualified bidder on the basis of open competitive bidding; except that, if one or more items of construction are covered by an established alternative procedure, consistent with State and local laws and regulations, which is approved by the State educational agency and is designed to assure construction in an economical manner consistent with sound business practice, such alternative procedure may be followed. (20 U.S.C. 844(a)(4), 847, 1232b; 33 U.S.C. 466 and 701 note; 40 U.S.C. 327–333; 42 U.S.C. 2000e note, 4151–56, 4321–4347)

§ 118.43 Obligation of funds for construction.

Funds made available for construction pursuant to a grant under title III of the Act shall be obligated by the local educational agency within 12 months from the effective date of the project, except that a longer period may be allowed by the State educational agency upon a showing of good cause. (31 U.S.C. 200)

§ 118.44 Recovery of payments.

If within 20 years after the completion of any construction undertaken pursuant to a grant under title III of the Act (a) the owner of the facility shall cease to be a State or local educational agency, or (b) the facility shall cease to be used for the educational and related purposes for which it was constructed, the United States shall be entitled to recover all or a portion of the Federal funds used to pay for such construction in accordance with the provisions of section 308 of the Act.

§ 118.45 Leasing facilities.

Where a State or local educational agency proposes to lease a facility with funds provided under title III of the Act, it shall obtain the right to occupy and operate and if necessary to maintain and improve, the premises to be leased during the proposed period of the project. (20 U.S.C. 843)

Subpart G—General Provisions

§ 118.51 Payment of funds.

(a) From its allotment under section 302 of the Act for any fiscal year, the Commissioner will pay to each State, either in advance or by way of reimbursement, amounts equal to the sums necessary for current expenditures by the State under an approved State plan for (1) grants to local educational agencies for supplementary educational centers and services, and (2) guidance, counseling and testing programs.

(b) The payment of funds under title III of the Act will be limited to the maximum funding level established in § 118.18(f); and the funding of partially approved State plans is further subject to the limitations set forth in § 118.18(b).

(c) The Commissioner will pay additional sums to each State receiving funds under paragraph (a) of this section for administration of the State plan, activities of the State advisory council, and evaluation and dissemination activities. In no case will the amount paid to a State for such activities for any fiscal year exceed an amount equal to 7½ percent of its allotment for that fiscal year or $150,000 ($50,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater. Of the funds available to any State for such activities during any fiscal year, the amount paid for administration of the State plan shall not exceed an amount equal to 5 percent of the State's allotment for that fiscal year or $100,000 ($35,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greated. (20 U.S.C. 843(a), 845, 1232d)

(d) No payments will be made by the Commissioner to a State under title III of the Act for any fiscal year unless the Commissioner determines that the amount of State aid per pupil with respect to the provision of free public education in that State for the preceding fiscal year was not less than the amount of such State per pupil aid for the second preceding fiscal year.

§ 118.52 Reallotment.

(a) *General.* The amount of any State's allotment under title III of the Act for any fiscal year which the Commissioner determines will not be required by such State for the period for which that amount is available shall be available for grants pursuant to section 306 of the Act (20 U.S.C. 8446) and Part 126 of this title (special grants made directly by the Commissioner) in such State. If the Commissioner further determines that the amount is not needed in such State for grants pursuant to section 306 of the Act, that amount may, in the Commissioner's discretion, either be used for grants pursuant to section 306 in other States or reallotted to other States. Funds may be reallotted from time to time, during the period for which they are available, on such dates as the Commissioner may fix, among other States in proportion to the amounts of their respective original allotments for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the respective State needs and will be able to use during the period for which the funds are available. Funds available due to such reductions may be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State from funds appropriated pursuant to section 301 of the Act (20 U.S.C. 841) for any fiscal year will be deemed to be a part of the amount allotted to it under section 302 of the Act (20 U.S.C. 842) for that year.

(b) *Statements of anticipated need.* In order to provide a basis for reallotment of funds by the Commissioner pursuant to this section, each State agency shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement or statements showing the anticipated need for the funds previously allotted during the period for which such funds are available, or any amount needed to be added thereto by reallotment. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements. (20 U.S.C. 842)

§ 118.53 Financial reports.

Each State educational agency shall submit in accordance with procedures established by the Commissioner: (a) A report following the end of any fiscal year of the total expenditures made under the State plan during that fiscal

year including a breakdown of expenditures for handicapped children by type of handicap; and (b) such other reports as are periodically required by the Commissioner to account properly for title III funds. (20 U.S.C. 844a(b)(11))

§ 118.54 Annual and other reports.

The State educational agency shall make an annual report and such other reports containing such information (including copies of project applications approved under § 118.23(d)) as the Commissioner may reasonably require to carry out his functions under title III of the Act and to determine the extent to which funds provided under title III of the Act have been effective in improving the educational opportunities of persons in the areas served by programs or projects supported under the State plan and in the State as a whole. Information about programs funded under § 118.14(b) shall be reported by type of handicap. The annual report shall include an evaluation made in accordance with objective measurements to determine the extent to which critical educational needs identified in the State plan have been met and an evaluation of the effectiveness of projects funded for that fiscal year under title III of the Act. The State shall also keep such records and afford access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports. (20 U.S.C. 844a(b)(11))

§ 118.55 Records.

(a) Each State and local educational agency receiving funds under title III of the Act shall keep intact and accessible all records relating to receipt and expenditure of such funds, including records which substantiate direct and indirect costs charged to the grant activities and which fully disclose the amount of funds received and the disposition thereof by the recipient, the cost of each program or project for which title III funds are used, and the amount of the cost of each such program or project supplied by other sources (including records relating to the use of consultants, and a breakdown of expenditures for the education of handicapped children by type of handicap).

(b) Except as otherwise provided for inventory records in § 118.41(c), all records required by paragraph (a) of this section shall be retained for 3 years after the close of the period during which the expenditures were made or if an audit has not occurred by that time, such records shall be maintained until (1) the State educational agency has been notified of the completion of the Federal audit, or (2) 5 years after the end of the fiscal year in which the expenditure was made, whichever is earlier.

(c) In cases where there is an audit irregularity, all records regarding the questioned expenditures shall be maintained until its resolution. The Department and the Comptroller General of the United States, or his duly authorized representatives, shall have access for the purposes of audit and examination to all such records and to any other books, documents, or papers of the recipient that are pertinent to the expenditure being questioned. (20 U.S.C. 844a(b)(11), 1232c)

§ 118.56 Contracts for services.

The State educational agency, and local educational agencies if approved by the State educational agency, may enter into contracts or agreements (to the extent permitted by State and local law and consistent with the approved State plan) for the provision by other appropriate public or private agencies, organizations, or institutions of a portion of the services to be provided under a title III program or project. Such contract or agreement shall describe the services to be provided by the agency or institution, shall incorporate the standards and requirements of title III of the Act and these regulations, and shall contain provisions assuring that the State or local educational agency will retain administrative supervision and control over the provision of services under the contract. Where a local educational agency proposes to contract for services, such services shall be specified in the project application or an amendment thereto, and the proposed contract shall be submitted to the State educational agency for approval. All contracts and agreements entered into pursuant to this section shall be in writing, and copies shall be maintained in accordance with § 118.56 of these regulations. (20 U.S.C. 843)

§ 118.57 Applicability of civil rights regulation.

Federal financial assistance under this part is subject to the requirements of title VI of the Civil Rights Act of 1964, approved July 2, 1964 (Public Law 88–352, 78 Stat. 252, 42 U.S.C. 2000d et seq.). Section 601 of that Act provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance. Therefore, Federal financial assistance pursuant to this part is subject to the regulation set forth in 45 CFR Part 80. (42 U.S.C. 2000d et seq.)

Dated: December 21, 1971.

S. P. MARLAND, Jr.,
Commissioner of Education.

Approved: February 1, 1972.

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

[FR Doc.72-1744 Filed 2-4-72;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19413; FCC 72-83]

FM BROADCAST STATIONS

Table of Assignments, Hattiesburg, Miss., and Certain Other Cities

In the matter of amendment of § 73.202, *Table of Assignments*, FM Broadcast Stations (Hattiesburg, Miss., Parkersburg, W. Va., Tallahassee, Fla.), Docket No. 19413, RM–1758, RM–1767, RM–1772.

1. Notice of proposed rule making is hereby given concerning the amendment of § 73.202(b) of the Commission's rules, the Table of FM Assignments, as listed and discussed below. All population figures are from the 1970 U.S. Census unless indicated otherwise. Briefly, the petitions involve requests for:

(a) Third assignments at Hattiesburg, Miss., and Parkersburg, W. Va.

(b) Fourth assignment at Tallahassee, Fla.

2. The proposals summarized above are advanced for comments. In some cases, as discussed below, we have reservations whether the proposed amendments should be adopted, and the fact that comments are invited does not indicate a present Commission view, even tentatively, that they should be.

3. *Hattiesburg, Miss., RM–1758.* Triple X Broadcasting Co., Inc., licensee of daytime AM station WXXX, petitions for assignment of Channel 221A to Hattiesburg, Miss. The channel could be assigned there without affecting other FM assignments. Hattiesburg, with a population of 38,277, is the seat of Forrest County (population 57,849). There are five AM stations, of which three are daytime stations and two Class C FM stations in operation at Hattiesburg. The requested assignment would be the third FM channel for the community.

4. In support of its petition, Triple X contends that Hattiesburg is a university community and industrial center of southern Mississippi, with an enrollment of approximately 9,000 students, approximately 90 industries, and gross sales of $185 million during the fiscal year 1969. Triple X asserts that there is no local broadcast station providing full-time service (i.e., 24 hours), and that it would offer, if it receives a grant, contemporary programing 24 hours per day.

5. The preclusion study discloses that the proposed assignment at Hattiesburg will foreclose assignment on Channel 221A and on Channels 218, 219, and 220 reserved for educational stations. The preclusion on Channel 221A is confined to a limited area, the only possible community within this area where a Class A channel could be utilized is Waynesboro, Miss. (population 4,368) where Channel 288A is presently assigned and does not warrant an additional assignment. Although Petal with a population

of 6,986 would also qualify for an assignment, it is located northeast of and adjacent to Hattiesburg. The channel assigned to Hattiesburg could be utilized at Petal under the 10-mile provision of § 73.203(b) of the rules. As to the three educational channels, there are a large number of assignment possibilities on other such channels for any needs which may arise in the area.[1] In this regard, it is noted that the possibility of interference to the television service on Channel 6 from educational FM stations is not likely to be a problem.[2]

6. In Docket No. 18883 (FCC 71-193) a proposal for assignment of Channel 269A to Hattiesburg was not adopted because the community had a fair share of FM assignments,[3] and the proposed assignment would have precluded the last available assignment for Collins, Miss. Also there was a question of the intermixing of two classes of channels in one community. Triple X argues that, although the population of Hattiesburg is only 38,277, the "metro-area" population would exceed 50,000; the population does not include a student population in excess of 7,000 and the population of Petal (6,986). It asserts that the allocation of Channel 221A to Hattiesburg would not preclude, other than to Petal and Waynesboro, the channel assignment to any community with a population of over 1,500 and that a Class C assignment would not be necessary to serve the community of the size of Hattiesburg metro-area.

7. Although the situation here appears to be similar to the earlier Hattiesburg proceeding and the preclusionary effect of assigning Channel 221A here is minimal, the petitioner believes that a Class A station would provide necessary service to the community. Because this channel cannot be utilized elsewhere in the general area, it would be in the public interest to invite comments on the proposal to assign Channel 221A to Hattiesburg, Miss.

8. *Parkersburg, W. Va., RM-1767.* By a petition filed January 14, 1971, Electrocom, Inc., requests assignment of Channel 236 to Parkersburg, W. Va. The channel could be assigned there without affecting other FM assignments. Parkersburg, with a population of 44,208, is the seat of Wood County (population 86,818). There are three AM stations, of which one is a daytime station, and two Class A FM stations in Parkersburg. The requested assignment would be the third FM channel for Parkersburg.

9. In support of its petition, Electrocom contends that greater Parkersburg has enjoyed a tremendous industrial growth in the past few years and that nearly every major industry field is now represented in the area. It estimates that the county population would be 110,000 by 1980. It asserts that there is substantial support for an additional assignment to Parkersburg.

10. The preclusion study indicates that the proposed assignment of Channel 236 at Parkersburg would foreclose the use of Channels 236 and 237A over wide areas. As to Channel 236, there are a number of communities in the precluded area where a Class B channel could be assigned. However, these communities presently have a sufficient number of assignments not to warrant an additional channel. With respect to Channel 237A, there are communities without FM assignments where a Class A channel could be assigned, such as Ravenswood, W. Va., which has a population of 4,240, Point Pleasant, W. Va. (population 6,122), and a number of other small communities. Since the requested assignment is a Class B channel and Parkersburg presently has two Class A channels with stations in operation, we are not entirely persuaded that it would be in the public interest to mix the assignments. Further, the requested assignment would exceed the number of channels in our criterion of two channels for cities of less than 50,000 population.

11. On the basis of the information before us, we are not able to determine definitively whether the requested channel should be assigned to Parkersburg. However, we will institute a rule making proceeding looking toward the assignment of Channel 236 at Parkersburg, and the parties should supply information on the areas and populations that are presently unserved and underserved within the 1 mv/m contour of proponent's FM station, if authorized, compared to a Class A station operating with a maximum facility.[4] Graphical showing of the affected areas should be included. There is also a question of whether there are any other channels available for assignment to communities located in the precluded areas. Further, since there would be intermixing in the class of assignments, we need to know whether the assignment of a Class B channel here would affect the viability of the two Class A stations in Parkersburg. In the interim, we tentatively propose to assign Channel 236 to Parkersburg, W. Va., and invite comments thereon.

12. *Tallahassee, Fla., RM-1772.* By a petition filed March 12, 1971, Capitol City Broadcasting, Inc., licensee of AM Station WTAL, seeks assignment of Channel 276A to Tallahassee, Fla. The proposed channel could be assigned to Tallahassee without requiring changes in other assignments. Tallahassee, with a population of 71,897, is the seat of Leon County (population 103,047), and the Capital of the State of Florida. There are four AM stations, of which two are daytime stations, and three Class C FM stations in Tallahassee. The requested assignment would be the fourth channel for the community.

13. In support, Capitol City contends that Tallahassee has the unique position of being the State Capital and county seat, and having a concentration of higher education and a rapidly expanding market; that the three universities and colleges have a total enrollment of 23,828 students for the year 1971; and that Tallahassee has sustained substantial growth in areas and population during the past several decades. It asserts that, except for the three existing FM stations, there is no effective nighttime broadcast coverage, and that WTAL nighttime coverage is precluded from placing an acceptable signal in the areas of major population growth. Capitol City alleges the requested allocation will permit WTAL to enhance its intended function as a source for dissemination of information pertaining to public affairs, government, civic, and social activities, as well as a source for emergency and disaster information to those populations residing in the outlying areas.

14. The proposed Tallahassee assignment would preclude the use of Channel 276A over a fairly wide area. The adjacent channels are not affected. Within this precluded area, there are a number of communities without FM assignments where a Class A channel could be assigned: such as Chattahoochee (population 7,944) and Apalachicola (population 3,102), Florida; Cairo (population 8,061) and Pelham (population 4,530), Georgia, and a number of smaller communities. Although Chattahoochee and Cairo each has a daytime AM station, other communities do not have local aural broadcast facilities. On the other hand, Tallahassee with a population of 71,897 may be assigned another FM channel, according to the FM allocation criteria. However, since Tallahassee presently has three Class C channel assignments, the requested would result in mixed classes of stations. It appears that the public interest would be served to propose assignment of another FM channel for Tallahassee, but due to the questions raised by the proposal, we would invite comments on this proposal which is offered tentatively. The comments should include a showing as to whether there are other assignments available to communities located within the precluded area.

15. *Showings required.* Comments are invited upon the various proposals discussed above and listed below. As indicated, in some cases the Commission has reservations or questions concerning the proposals, and proponents of the proposed assignments will be expected to answer them. More generally, the proponents of the various proposals contained herein are expected to file comments, even if they do little more than resubmit or refer to their petitions. They are expected, among other things, to state their intention to apply for the

[1] There is an application filed by University of Southern Mississippi at Hattiesburg for assignment on Channel 216 (BPED-1319).

[2] Hattiesburg and Forrest County are located outside the Grade B contour of the closest Channel 6 television station at New Orleans, La., and the Television Factbook, 1970-1971 edition, shows no appreciable viewing in the county.

[3] Limit of two FM channels for the city of less than 50,000 population, Docket No. 14185, Third Report and Memorandum Opinion and Order, 23 R.R. 1859, 1871; Further Notice of Proposed Rule Making, adopted July 25, 1962, FCC 62-867.

[4] The showing should be made in accordance with the criteria set forth in Roanoke Rapids and Goldsboro, North Carolina, 9 FCC 2d 672 (1967).

channels if assigned, and, if authorized, to promptly build their stations. Failure to make these showings may result in denial of the proposals.

16. *Cutoff procedure.* As in other recent FM rule making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

17. In view of the foregoing, subject to the conditions and reservations set forth hereinabove in certain respects, and pursuant to authority found in sections 4(i), 303 (g) and (r) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b) of the Commission's rules, the Table of FM Assignments, as follows:

City	Channel No.	
	Present	Proposed
Tallahassee, Fla	235, 255, 281	235, 255, 276A, 281
Hattiesburg, Miss	279, 283	221A, 279, 283
Parkersburg, W. Va	257, 276A	236, 257A, 276A

18. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before March 10, 1972, and reply comments on or before March 24, 1972. All submissions by parties to this proceeding, or persons acting in behalf of such parties, must be made in written comments, reply comments or other appropriate pleadings.

19. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Responses will be available for public inspection during the regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: January 26, 1972.

Released: February 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-1757 Filed 2-4-72;8:50 am]

[1] Commissioner H. Rex Lee absent.

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

ELEMENTAL SULPHUR FROM MEXICO

Determination of Sales at Less Than Fair Value

FEBRUARY 3, 1972.

Information was received on March 2, 1971, that elemental sulphur from Mexico was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs was published in the FEDERAL REGISTER of November 6, 1971.

I hereby determine that for the reasons stated below, elemental sulphur from Mexico is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act.

Statement of reasons on which this determination is based. Analysis of the information from all sources reveals that the proper basis of comparison is between purchase price or exporter's sales price, as appropriate, and the adjusted home market price of such or similar merchandise.

Purchase price was calculated on the basis of a U.S. terminal price, or on a C & F, landed U.S. destination price, with appropriate deductions for terminal, port and brokerage charges. The appropriate inland freight and ocean freight costs were deducted from these prices.

Exporter's sales price was calculated on the basis of a delivered U.S. customer's premises or terminal price, with appropriate deductions for selling expenses, terminal, port and brokerage charges, inland freight, ocean freight and net Mexican export tax.

The home market price was based on the f.o.b. plant price of such or similar merchanidse in the country of exportation, with the appropriate adjustment made for blending and filtering costs.

Purchase price or exporter's sales price, as appropriate, was found to be lower than the adjusted home market price of such or similar merchandise.

The U.S. Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-1857 Filed 2-4-72;9:41 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, BRANCH OF LANDS AND MINERALS OPERATIONS, DIVISION OF TECHNICAL SERVICES, NEW MEXICO STATE OFFICE

Redelegation of Authority

1. The redelegation of authority promulgated in the June 12, 1971, FEDERAL REGISTER (36 F.R. 11457) to the Chief, Branch of Lands and Minerals Operations, is hereby revoked.

2. Pursuant to the authority contained in Part I, section 1.1(a) of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Branch of Lands and Minerals Operations in the Division of Technical Services, authority to take action on the matters listed in Part II-A of Bureau Order No. 701 of July 23, 1964, as amended.

3. The Chief, Division of Technical Services may, in his discretion, personally exercise any authority hereby delegated to the Chief, Branch of Lands and Minerals Operations.

4. The Chief, Branch of Lands and Minerals Operations may redelegate the authority vested in him by this delegation to any qualified employee under his jurisdiction. Any order of redelegation must be approved by the State Director and published in the FEDERAL REGISTER.

5. The Chief, Branch of Lands and Minerals Operations may, by written order, designate any qualified employee of the Branch to perform the functions of his position in his absence. Such order will be approved by the Chief, Division of Technical Services.

6. *Effective date.* This redelegation will become effective February 4, 1972.

ROBERT O. BUFFINGTON,
Acting State Director.

Approved: January 31, 1972.

GEORGE L. TURCOTT,
Associate Director.

[FR Doc.72-1714 Filed 2-4-72;8:46 am]

[Montana 20500(SD)]

SOUTH DAKOTA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 26, 1972.

The Forest Service, U.S. Department of Agriculture, has filed application M 20500(SD) for the withdrawal of national forest lands 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 to protect a developed picnic ground, a recreation area, and a roadside zone.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 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:

BLACK HILLS MERIDIAN

BLACK HILLS NATIONAL FOREST

Mount Roosevelt Recreation Sites and Roadside Zone

T. 5 N., R. 3 E.,
M.S. 1216 (Whitewood Mining District) in sec. 16: Excepting a tract known as the Mount Roosevelt Memorial which is a portion of the Last Chance No. 2 lode mining claim, M.S. 1216, situated on the summit of Mount Theodore Roosevelt in sec. 16, T. 5 N., R. 3 E., B.H.M., the northeast corner of which tract lies S. 14°20' W., 128.05 feet from corner No. 1 of said Last Chance No. 2 lode, thence due west 200 feet, thence due south 200 feet, thence due east 200 feet, and thence due north 200 feet to the place of beginning, which tract contains 0.918 acre, more or less.
Sec. 16, lots 1, 3, and 4, SW¼SE¼NE¼, W½NW¼SE¼SE¼, and NE¼SW¼SE¼.

Also: A strip of land 200 feet each side of the centerline of Mount Roosevelt Road and

a branch road through the following legal subdivisions:

Sec. 14, lot 4 and S½NW¼;
Sec. 15, lots 1, 2, 3, SW¼NW¼ and NW¼SW¼;
Sec. 16, lot 5, E½SE¼NE¼, NW¼SE¼NE¼, S½SW¼SE¼, and NE¼SE¼.

Steamboat Rock Picnic Ground

T. 2 N., R. 5 E.,
Sec. 1, S½NW¼SW¼, N½SW¼SW¼, and NW¼SE¼SW¼.

The areas described aggregate 333.19 acres, more or less, in Lawrence County, S. Dak.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-1742 Filed 2-4-72;8:48 am]

Office of Hearings and Appeals

[Docket No. M72-30]

UNITED STATES STEEL CORP.

Notice of Petition for Modification of an Interim Mandatory Safety Standard

JANUARY 31, 1972.

In regard petition of United States Steel Corp. for modification of an interim mandatory safety standard (section 309(b) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 801 et seq.), Docket No. M 72-30, Somerset Mine, Somerset, Colo.

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. section 801 et seq.), United States Steel Corp. (petitioner) has filed a petition to modify the application of section 309(b) of the Act with respect to its Somerset Mine located at Somerset, Gunnison County, Colo. Section 309(b) of the Act provides:

(b) Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded low- and medium-voltage circuits to be used underground to feed such stationary electrical equipment if such circuits are either steel armored or installed in grounded rigid steel conduit throughout their entire length. The grounding resistor, where required, shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

Petitioner proposed that said mine be excepted from the requirements of section 309(b) of the Act on the grounds that conversions of its 480-volt power system from that in use as described in the petition to a resistance grounded power system would result in no improvement in safety and that the difference between the system in use and that required by the cited provision of the Act is so slight as to be inconsequential.

A copy of the petition is available for inspection in the Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

JANUARY 31, 1972.

[FR Doc.72-1716 Filed 2-4-72;8:46 am]

Office of the Secretary

[INT DES 72-18]

DEEP GEOTHERMAL TEST WELL GEOTHERMAL RESOURCE INVESTIGATIONS, IMPERIAL VALLEY, CALIF.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on a proposed deep geothermal test well in Imperial Valley, California.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-9247.
Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.
Division of Engineering Support, E&R Center, Technical Services Branch, Building 67, Denver Federal Center, Denver, Colo. 80225, Telephone (303) 234-3007.
Office of the Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, NV 89005, Telephone (702) 293-8560.
Southern California Planning Office, Bureau of Reclamation, Post Office Box 1303, San Bernardino, CA 92402, Telephone (714) 884-3441.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, VA 22151. Please refer to the statement number above.

Dated: January 31, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-1715 Filed 2-4-72;8:46 am]

[DES 72-17]

PROPOSED HYBRID PROTOTYPE PLANT FOR CITY OF BROWNSVILLE, TEX.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior in cooperation with the State of Texas has prepared a draft environmental statement for a proposed prototype distillation plant to serve the city of Brownsville, Tex. and invites written comment within thirty (30) days of this notice.

The environmental statement considers the proposed construction of a single purpose plant (water production only), the product water of which will be blended with existing water supplies of the city of Brownsville, Tex.

Copies are available for inspection at the following location:

Office of Saline Water, Room 5346, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-3503.

Dated: January 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-1717 Filed 2-4-72;8:46 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. F-136]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric 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 consumer interests of the executive agencies of the Federal Government before the Indiana Public Service Commission in a proceeding involving the application of the Public Service Company of Indiana for a rate increase.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

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 31, 1972.

[FR Doc.72-1713 Filed 2-4-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the following table lists the establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.) which were officially reported as humanely slaughtering and handling the species of livestock respectively designated for such establishments in the table. Additions to and deletions from this list will be made from time to time as the facts may warrant, by notices published in the FEDERAL REGISTER. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods.

ESTABLISHMENTS SLAUGHTERING HUMANELY

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equine
Armour & Co.	2C	(*)					
Do.	2H	(*)				(*)	
Do.	2W					(*)	
Do.	2AT					(*)	
Do.	2HT	(*)					
Do.	2SA			(*)	(*)		
Do.	2SD					(*)	
Do.	2SI	(*)					
Do.	2WN	(*)	(*)				
Swift & Co.	3G	(*)					
Do.	3H	(*)				(*)	
Do.	3L					(*)	
Do.	3N	(*)				(*)	
Do.	3R	(*)				(*)	
Do.	3S					(*)	
Do.	3W	(*)					
Do.	3Y	(*)					
Do.	3Z	(*)					
Do.	3AE					(*)	
Do.	3BW			(*)			
Do.	3CC			(*)			
D. E. Nebergal Meat Co.	3DE	(*)					
Swift & Co.	3GI	(*)					
Do.	3QW					(*)	
Do.	3TA	(*)					
Lykes Brothers, Inc. of Georgia	8	(*)	(*)			(*)	
Lykes Brothers, Inc.	8B	(*)					
Pauly Packing Co., Inc.	10	(*)					
The Evans Packing Co.	11	(*)	(*)	(*)		(*)	
Hygrade Food Products Corp.	12A					(*)	
Do.	12P	(*)					
Do.	12T	(*)					
Do.	12FW	(*)					
Mickelberry's Food Products Co.	16					(*)	
John Morrell & Co.	17	(*)				(*)	
Do.	17A	(*)				(*)	
Do.	17D	(*)		(*)		(*)	
Do.	17E	(*)				(*)	
Do.	17U	(*)					
C. Finkbeiner, Inc.	18	(*)				(*)	
Cudahy Co.	19W	(*)					
Wilson Certified Foods, Inc.	20A	(*)				(*)	
Wilson-Sinclair Co.	20H					(*)	
Wilson Certified Foods, Inc.	20I	(*)				(*)	
Wilson-Sinclair Co.	20L					(*)	
Wilson Certified Foods, Inc.	20N	(*)	(*)	(*)		(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equine
Wilson Certified Foods, Inc.	20Q	(*)	(*)			(*)	
Wilson Beef & Lamb Co.	20U			(*)			
Wilson-Sinclair Co.	20Y	(*)	(*)	(*)		(*)	
Wilson Beef & Lamb Co.	20AI	(*)		(*)	(*)		
Do.	20HF	(*)					
Swift & Co.	23	(*)		(*)			
Brander Meat Co.	25	(*)	(*)				
Patrick Cudahy, Inc.	28					(*)	
Kreinberg & Krasny, Inc.	30	(*)					
Superior's Brand Meats, Inc.	31	(*)	(*)			(*)	
Roegelein Provision Co.	32					(*)	
Do.	32A	(*)					
Valleydale Packers, Inc.	34	(*)	(*)	(*)		(*)	
Kenton Packing Co.	36	(*)	(*)				
Sunnyland Packing Co.	43	(*)				(*)	
Stark Wetzel & Co., Inc.	44	(*)					
Do.	44A					(*)	
Linden Packing Co., Inc.	45	(*)					
Idaho Meat Packers	46	(*)					
Midwestern Beef, Inc.	53	(*)					
Insel and Insel	54	(*)	(*)	(*)	(*)		
Sunnyland Packing Co. of Alabama	56	(*)					
Do.	56A					(*)	
Glover Packing Co. of Amarillo	60	(*)					
Glover Packing Co.	60A	(*)	(*)	(*)	(*)	(*)	
Gooch Packing Co., Inc.	61	(*)				(*)	
Sunflower Beef Packers of Nebraska	62	(*)					
Sandusky Dressed Beef Co.	63	(*)					
Selkirk Realty Co.	65					(*)	
The Quaker Oats Co.	E67						(*)
Meat Quality Laboratory	68	(*)	(*)	(*)		(*)	
Minch's Wholesale Meats, Inc.	72	(*)	(*)	(*)			
Brown Thompson & Sons	73					(*)	
Armour & Co.	75			(*)			
Dinner Bell Foods, Inc.	79A	(*)				(*)	
Do.	79B	(*)				(*)	
The Cudahy Co.	81					(*)	
Riviana Foods, Inc.—Hill's Division	E83						(*)
Edgar Packing Co.	84		(*)				
Kansas Beef Industries, Inc.	86	(*)					
Utica Veal Co., Inc.	88	(*)					
The E. Kahn's Sons Co.	89	(*)	(*)			(*)	
Peet Packing Co.	90					(*)	
Do.	90A	(*)					
Do.	90B	(*)					
Laredo Packing Co.	91	(*)	(*)			(*)	
Sugardale Foods, Inc.	92	(*)				(*)	
Shonyo Packing, Inc.	93	(*)	(*)	(*)	(*)		
The Val Decker Packing Co.	95	(*)				(*)	
Central Packing Co., Inc.	96	(*)	(*)				
A. Koch's Sons	98	(*)	(*)				
Armour & Co.	100	(*)		(*)			
Liberty Packing Co.	101	(*)	(*)				
H. Graver Co.	103	(*)					
J. Lynn Cornwell, Inc.	107					(*)	
Contris Packing Co., Inc.	110					(*)	
Wilson-Sinclair Co.	111	(*)		(*)		(*)	
Morris Beef Co.	112	(*)					
The Morris Packing Co.	113	(*)					
Farmland Foods, Inc.	114	(*)					
Pine Burr Packing Co.	116	(*)				(*)	
Trophy Meat Packing Co., Inc.	117	(*)	(*)	(*)		(*)	
Marhoefer Packing Co., Inc.	121	(*)				(*)	
City Dressed Beef	125	(*)					
John Morrell & Co.	162	(*)					
Cash Brothers Packing Co., Inc.	127	(*)	(*)	(*)		(*)	
John Roth & Son, Inc.	130	(*)					
Tobin Packing Co., Inc.	133					(*)	
Ferrara Meat Co., Inc.	134	(*)	(*)				
Nebraska Beef Packers, Inc.	135	(*)					
Kluener Packing Co.	142	(*)					
R. B. Rice Sausage Co., Inc.	144					(*)	
Silver Falls Packing Co., Inc.	153	(*)	(*)				
Dallas City Packing, Inc.	156	(*)	(*)				
Cornland Dressed Beef, Inc.	157	(*)					
Beefland International, Inc.	158	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equine
Missouri Farmers Association Packing Division	159	(*)				(*)	
Carr Packing Co., Inc	160	(*)					
Kansas Beef Industries, Inc	164	(*)					
New York State College of Agriculture	165	(*)	(*)	(*)		(*)	
E. W. Kneip, Inc	169	(*)					
De Kalb Packing Co	170A					(*)	
Bub Davis Packing Co	171	(*)					
Lee's Sausage Co., Inc	173					(*)	
American Meat Packing Corp	180					(*)	
Montrose Beef Co	181	(*)					
The Rath Packing Co	186					(*)	
Do	186F					(*)	
Kent Provision Co., Inc	187	(*)					
Carl's Sausage Co	188					(*)	
Cudahy Co	191					(*)	
Krey Packing Co	192					(*)	
Hynes Packing Co	197	(*)	(*)	(*)			
United Packing Co	198	(*)		(*)			
George A. Hormel & Co	199	(*)				(*)	
Do	199A	(*)					
Do	199D					(*)	
Do	199H	(*)					
Do	199I					(*)	
Do	199N	(*)				(*)	
Caviness Packing Co., Inc	200	(*)					
Cudahy Co	202					(*)	
Platte Valley Packing Co	203	(*)					
Emge Packing Co., Inc	205	(*)				(*)	
National Beef Packing Co	208A	(*)					
Riverside Abattoir, Inc	210	(*)					
Penn Packing Co	212					(*)	
E. W. Kneip, Inc	213	(*)					
Marshall Meat Products, Inc	215	(*)					
Lincoln Meat Co	217	(*)					
York Packing Co., Inc	220					(*)	
ITT Gwaltney, Inc	221A					(*)	
Armour & Co	222	(*)				(*)	
De Jong Packing Co	223	(*)	(*)				
Hygrade Food Products Corp	224	(*)				(*)	
Do	224B	(*)	(*)				
Diamond "O" Meat Packing Corp	232	(*)					
John Morrell & Co	234	(*)					
Walti Schilling & Co., Inc	235	(*)					
Texas Technological College—Animal Husbandry.	236	(*)		(*)	(*)	(*)	
Raskin Packing Co	237	(*)					
P. D. & J. Meats	240	(*)	(*)				
Greenwood Packing Plant	242	(*)	(*)	(*)		(*)	
I. Klayman & Co	243					(*)	
Iowa Beef Processors, Inc	244	(*)					
Do	245	(*)					
Do	245A	(*)					
Do	245B	(*)					
Do	245C	(*)					
Do	245D	(*)					
John Morrell & Co	246	(*)				(*)	
Harget Realty Corp	247					(*)	
Federal Packing Co., Inc	249	(*)					
Frosty Morn Meats, Inc	250	(*)				(*)	
Metro Meat Packing, Inc	253					(*)	
Magic Valley Packing Co	258	(*)					
Hyplains Dressed Beef, Inc	262	(*)					
The Jones Dairy Farm	263					(*)	
Farm Pac Kitchens, Inc	266	(*)				(*)	
Pacific Meat Co., Inc	267	(*)	(*)	(*)		(*)	
Prairieland Packing Corp	269	(*)					
Golden Valley Packing Co	271	(*)					
Tog Packing Co., Inc	273	(*)					
Alpha Beta Acme Markets, Inc	279	(*)					
Momence Pork Packers Co	282					(*)	
Parnett Packing Corp	283	(*)					
Solano Meat Co	285	(*)	(*)	(*)			
Western Packing Co	288	(*)					
Arbogast and Bastian Co	289					(*)	
The H. H. Meyer Packing Co	290					(*)	
San Jose Meat Co., Inc	291	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equine
Armour & Co	292	(*)					
Iowa Beef Processors, Inc	292A	(*)					
S. Schweid	295	(*)	(*)	(*)			
Gus Juengling & Son, Inc	298	(*)					
Waldock Packing Co	299					(*)	
Great Falls Meat Co	301	(*)				(*)	
Commercial Packing Co., Inc	302	(*)					
Union Packing Co	305	(*)					
Do	305A	(*)					
Star Packing Co	306	(*)					
Kaufman Meat Packers, Inc	310	(*)	(*)				
Melton Provision Co	311	(*)		(*)	(*)		
Rudy's Farm Co	315					(*)	
Dutterer's of Manchester	316A	(*)				(*)	
Estes Packing Co	319	(*)					
Stadler Packing Co., Inc	320	(*)				(*)	
Rudnick Packing Co., Inc	325	(*)					
Frisco Packing Co	327	(*)					
C & M Meat Packing Corp	329	(*)	(*)				
Royal Packing Co	331A	(*)					
Shapiro Packing Co., Inc	332	(*)					
Great Western Packing Co., Inc	334	(*)					
Noble's Meat Co	335	(*)					
Chino Valley Meat Packing Co., Inc	336	(*)					
Green & Oliver Sausage Co	338					(*)	
Midland Empire Packing Co., Inc	339	(*)					
Bookey Packing Co	340	(*)					
Peters Meat Products Inc. of Wisconsin	341	(*)				(*)	
Puckett Packing Co	343	(*)					
Gold-Pac Meat Co., Inc	344	(*)					
Anza Packing Co	345	(*)					
Union Packing Co	351	(*)					
Fresno Meat Packing Co	354	(*)					
Hernando Packing Co., Inc	355	(*)	(*)				
St. Paul Dressed Beef, Inc	357	(*)					
Clougherty Packing Co	360					(*)	
Meyer's Packing Co	363	(*)					
James Allan & Sons	365	(*)		(*)		(*)	
Wilson Certified Foods, Inc	374	(*)	(*)			(*)	
Cross Brothers Meat Packers, Inc	376	(*)	(*)	(*)			
Beeville Packing Co	377	(*)	(*)	(*)		(*)	
Salinas Meat Co	378	(*)	(*)	(*)		(*)	
Emge Packing Co., Inc	380	(*)				(*)	
Smithfield Packing Co., Inc	382					(*)	
Acme Markets, Inc	384	(*)					
City Custom Packing Co., Inc	387	(*)		(*)	(*)	(*)	
Dugdale Packing Co	390	(*)					
Oldham's Farm Sausage Co., Inc	392					(*)	
Robert L. Runtz, Inc	395	(*)					
Boneless Meat Co	395B	(*)	(*)				
Dubuque Packing Co	396	(*)	(*)	(*)		(*)	
Do	396C	(*)					
Logan Packing Co	397	(*)					
Watsonville Dressed Beef, Inc	398	(*)					
Los Banos Abattoir Co	400	(*)	(*)				
Oakridge Smokehouse	401	(*)				(*)	
Owens Country Sausage, Inc	403					(*)	
Williston Packing Co., Inc	405	(*)					
Neuhoff Brothers	406	(*)	(*)			(*)	
Green Bay Dressed Beef, Inc	410	(*)					
Alpine Packing Co	412	(*)	(*)				
The Lundy Packing Co	413					(*)	
Do	413A					(*)	
Frosty Morn Meats	414	(*)				(*)	
Minden Beef Co	417	(*)					
S. Bonaccurso & Sons, Inc	418	(*)					
Murray Packing Co., Inc	421	(*)					
E. W. Kneip, Inc. of Iowa	422	(*)					
The Collins Packing Co	433					(*)	
Kenosha Packing Co., Inc	425	(*)					
Fineberg Packing Co	428	(*)	(*)			(*)	
Schneider Packing Co	439	(*)					
Omaha Dressed Beef Co., Inc	441	(*)					
Del Curto Meat Co	445	(*)	(*)	(*)	(*)	(*)	
A. Dicillo & Sons, Inc	448	(*)	(*)				
Dewitt Packing Corp	456	(*)	(*)				

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Morris Rifkin & Sons, Inc	460	(*)					
Pioneer Boneless Beef, Inc	461	(*)					
Lancaster Packing Co	462	(*)					
Litvak Packing Co	465	(*)					
Becwar Packing Co	467	(*)	(*)			(*)	
Cornhusker Packing Co	468	(*)					
Missouri Beef Packers, Inc	473	(*)					
Missouri Beef Packers, Inc	473A	(*)					
Do	473B	(*)					
Mid-States Packers, Inc	476	(*)					
Do	476A	(*)					
Armour & Co	477	(*)					
Gotham Provision Co., Inc	481	(*)	(*)				
Virgin Islands Packing Plant	482	(*)	(*)	(*)	(*)	(*)	
Robel Beef Packers	485	(*)					
East Tennessee Packing Co	487	(*)				(*)	
Memphis Butchers Association, Inc	488	(*)				(*)	
E. W. Kneip, Inc	489	(*)					
American Sheep Co	490	(*)	(*)	(*)			
Fairbank Farms, Inc	492	(*)	(*)				
Mid-State Meat Packers, Inc	494	(*)	(*)				
Roberts Packing Co	495					(*)	
Bartel's Meat Co	497	(*)	(*)	(*)		(*)	
Heim Brothers Packing Co., Inc	499	(*)				(*)	
Spencer Foods, Inc	501	(*)					
The Hull & Dillion Packing Co	510	(*)				(*)	
Shen-Valley Meat Packers, Inc	511	(*)				(*)	
Snider Brothers, Inc	512	(*)	(*)				
Averich Packing Co., Inc	513	(*)					
Charles Miller & Co	517					(*)	
Illinois Packing Co	521	(*)					
Pearl Packing Co., Inc	524	(*)	(*)	(*)		(*)	
Meat Laboratory—Oklahoma State University	526	(*)	(*)	(*)		(*)	
Sebastopol Meat Co., Inc	527	(*)	(*)			(*)	
Armour & Co	528	(*)					
Smallwood Packing Co., Inc	529	(*)					
Marysville Meat Packing Co., Inc	533	(*)	(*)				
Pepper Packing Co	536	(*)					
Oscar Mayer & Co., Inc	537A	(*)				(*)	
Do	537B					(*)	
Do	537C					(*)	
Do	537E					(*)	
Midwest Packing Co	538	(*)					
Greendell Packing Co	542	(*)	(*)				
Growers Meat Co., Inc	548	(*)					
Pride Packing Co., Inc	549	(*)	(*)				
Salter Packing Co	551	(*)					
Black Hills Packing Co	554	(*)				(*)	
Mid-South Packers, Inc	557	(*)				(*)	
The Cudahy Co	559	(*)				(*)	
D & W Packing Co	560	(*)				(*)	
Dependable Meat Packing	561	(*)	(*)				
Packerland Packing Co., Inc	562	(*)					
Texas Meat Packers, Inc	565	(*)	(*)				
Do	565C	(*)					
Elmer Bender & Son, Inc	569		(*)	(*)			
Perretta Packing Co., Inc	571	(*)					
Frosty Morn Meats, Inc	576	(*)				(*)	
Armour & Co	579	(*)				(*)	
Coffeyville Packing Co., Inc	583	(*)					
Frederick Packing Co	586					(*)	
Dawson-Baker Packing Co., Inc	588	(*)	(*)	(*)			
Elk Grove Meat Co	601	(*)					
San Antonio Packing Co	602	(*)		(*)	(*)		
Wright Packing Co	603	(*)	(*)				
I. D. Packing Co., Inc	606					(*)	
Eastern Oregon Meat Co., Inc	611	(*)		(*)		(*)	
Midtown Veal & Mutton Co., Inc	612			(*)			
Metro Meat Packing	613	(*)				(*)	
Donner Packing Co	614	(*)					
Kummer Meat Co., Inc	617	(*)		(*)		(*)	
Doskocil Sausage, Inc	623					(*)	
Lumberjack Meats, Inc	626					(*)	
Big Foot Packing Co., Inc	627	(*)					
E. A. Miller & Sons Packing Co	628	(*)	(*)				
H. H. Keim Co	630	(*)		(*)		(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equine
Ebner Brothers Packers	633	(*)					
United Packing Co., Inc	635	(*)					
Auburn Packing Co., Inc	636	(*)					
Carteret Abattoir, Inc	639	(*)	(*)	(*)	(*)		
Flanery Meat, Inc	643	(*)					
Coast Packing Co	645	(*)					
Transcontinent Packing Co	E646						(*)
Bird Provision Co	647					(*)	
Spencer Foods, Inc	648	(*)					
Schluderberg-Kurdle Co., Inc	649					(*)	
John Morrell & Co	650					(*)	
Nagle Packing Co	653		(*)				
Wilson Beef & Lamb Co	655	(*)		(*)			
Baum's Bologna, Inc	657	(*)					
McCook Packing Corp	660	(*)	(*)				
Quality Meat Packing Co	661	(*)					
Colorado West Packers, Inc	662	(*)	(*)	(*)		(*)	
Globe Packing Co	663	(*)					
Webber Farms, Inc	665					(*)	
Crown Packing Co	666					(*)	
Scottsbluff Packing Co	667	(*)					
Union Packing Co., Inc	673	(*)					
S & S Packing Co., Inc	674	(*)				(*)	
Do	674A					(*)	
Caviness Packing Co., Inc	675	(*)	(*)				
Jacob Bauer's Sons, Inc	678	(*)	(*)				
Caldwell Packing Co., Inc	683	(*)					
The William Focke's Sons Co	685					(*)	
Callaway Packing Co., Inc	688	(*)	(*)				
Pierce Packing Co	691	(*)				(*)	
Wilhelm Foods, Inc	692	(*)					
Bryan Meat Co	693	(*)					
Kansas State University—Animal Husbandry Department.	694	(*)	(*)	(*)		(*)	
Kramer Beef Co	695	(*)					
Gulf Packing Co	696	(*)					
Triolo Brothers	706					(*)	
Central Nebraska Packing Co	E713						(*)
Davenport Packing Co., Inc	716	(*)					
Farmland Foods, Inc	717					(*)	
Do	717A					(*)	
A. Darlington Strode	718					(*)	
K-M Co	719	(*)					
Swift & Co	726	(*)	(*)	(*)		(*)	
Decker & Son	727					(*)	
Roode Packing Co., Inc	729	(*)					
Frosty Morn Meats, Inc	731					(*)	
Pacific Meat Co	732	(*)	(*)	(*)		(*)	
Western Packers	733	(*)					
The Quaker Oats Co	E734						(*)
Ohio Packing Co	736	(*)	(*)			(*)	
Parnell's Packing Co	738	(*)	(*)	(*)		(*)	
The Jacob Schlachter's Sons Co	739	(*)	(*)				
Mid-State Meat Co	741	(*)	(*)				
The OK Packing Co	749	(*)	(*)				
Monroe Packing Co., Inc	755	(*)					
Seitz Packing Co., Inc	756A	(*)				(*)	
The American Meat Packing Corp	760					(*)	
Schaake Packing Co., Inc	761	(*)					
Karler Packing Co	767	(*)					
Sheridan Meat Co., Inc	768	(*)	(*)	(*)		(*)	
Earl C. Gibbs, Inc	770	(*)					
Hanford Meat Packing Co	773	(*)					
Atlas Packing Co	775	(*)					
Central Packing Co	777	(*)					
The Cudahy Co	779	(*)	(*)			(*)	
Bryan Packing Co	780	(*)	(*)			(*)	
Diamond Meat Co., Inc	783	(*)					
Granite State Packing Co	785	(*)	(*)				
Aurora Packing Co., Inc	788	(*)					
Hatfield Packing Co	791	(*)				(*)	
Baum's Meat Packing Co	792	(*)	(*)				
Rod Barnes Packing Co	798	(*)					
Western Iowa Pork	806					(*)	
American Beef Packers, Inc	807	(*)					
Do	807A	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Amco-Pac Corp	809	(*)					
The G. Erhardt Sons, Inc	810	(*)	(*)				
Great Western Packing Co. of Nebraska	811			(*)			
United Packing of Iowa, Inc	812					(*)	
Castle Brands, Inc	816					(*)	
Rochester Independent Packer, Inc	817	(*)					
J. H. Routh Packing Co	818					(*)	
Sterling Colorado Beef Co	823	(*)					
Foremost Packing Co	824					(*)	
Superior Packing Co., Inc	825			(*)			
Berchem's Meat Co	830	(*)					
Lee-Johnson, Inc	835	(*)				(*)	
John Morrell & Co	836	(*)					
Frederick County Products, Inc	838	(*)	(*)	(*)			
Reelfoot Packing Co	840	(*)				(*)	
G. Bartusch Packing Co	843	(*)					
The Allen Packing Co	845	(*)	(*)				
Arena Dressed Beef Co	853	(*)	(*)				
Sioux City Dressed Beef	857	(*)					
Siouxland Dressed Beef Co	857F	(*)					
Sioux Beef Co	857O	(*)					
Jordan Meat and Livestock Co., Inc	858	(*)	(*)	(*)	(*)		
Wells and Davies, Inc	860	(*)				(*)	
Sierra Meat Co	862	(*)					
Tennessee Dressed Beef Co	865	(*)					
American Beef Packers, Inc	866	(*)					
Hardy and Co., Inc	869	(*)	(*)				
Santa Ana Packing Co	874	(*)					
Pahler Packing Corp	880	(*)					
Swanton Packing Co., Inc	883	(*)					
Alco Packing Co., Inc	885	(*)	(*)	(*)		(*)	
Walden Packing Co., Inc	886	(*)					
Sambol Packing Co	892	(*)					
Tobin Packing Co., Inc	893					(*)	
Vernon Calhoun Packing Co	897	(*)					
Meats, Inc	899	(*)					
Sigman Meat Co., Inc	901B					(*)	
Party Packing Corp	902	(*)					
Kane's Dressed Beef	907	(*)					
B. Constantino & Sons Co	918	(*)					
Alice Packing Co	921	(*)					
Valleydale Packers, Inc	922	(*)	(*)			(*)	
Wisconsin Packing Co	924	(*)					
Peoples Packing Co	925	(*)	(*)				
Parsons Beef Co., Inc	932	(*)					
E. B. Manning & Son	934	(*)					
Iowa Beef Processors, Inc	935	(*)					
Voltz Packing Co	938	(*)					
Capellino Abattoir, Inc	939	(*)					
Gentner Packing Co., Inc	941	(*)					
Diamond Meat Packers, Inc	944					(*)	
M. Brizer & Co	948	(*)					
Joe Doctorman & Son Packing Co., Inc	949	(*)	(*)			(*)	
Kennedy's Sausage Co	950					(*)	
Bob Evans Farms, Michigan, Inc	952					(*)	
Armour & Co	956					(*)	
Thompson Farm Co	959					(*)	
Greater Omaha Packing Co., Inc	960	(*)					
Potter Sausage Product, Inc	961					(*)	
Virginia Packing Co., Inc	963	(*)	(*)	(*)			
Interstate Meats, Inc	965	(*)					
Lay Packing Co	967	(*)				(*)	
Monfort Packing Co	969	(*)		(*)			
Hawaii Meat Co., Ltd	970	(*)					
Longhorn Meat Packers, Inc	976	(*)					
National Food Stores, Inc	981	(*)					
Banner Beef Co	985	(*)					
Shamrock Beef Co	987	(*)					
Everett C. Horlein & Son Inc	988	(*)					
Klarer of Kentucky, Inc	995					(*)	
The Home Pride Provisions, Inc	1029	(*)					
Armour & Co	1085	(*)	(*)				
Landy Packing Co	1171	(*)					
Porkland Division of Consolidated Foods	1175					(*)	
A. F. Moyer & Sons, Inc	1311	(*)					
McCabe Packing Plant	1312	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
H & H Packing Co	1315	(*)				(*)	
Nebraska Iowa Dressed Beef Co	1318	(*)					
Associated Meat Packers, Inc	1472	(*)		(*)		(*)	
Bonanza Packing Co	1475A	(*)				(*)	
Stevens Meat Co., Inc	1485	(*)					
Aristo Foods, Inc	1528A	(*)					
James Sausage Co	1718					(*)	
Great Markwestern Packing Co	1951A	(*)					
C & C Packing Co	2033	(*)	(*)				
De Luca Packing Co	2054	(*)	(*)				
Odom Sausage Company of Kentucky, Inc	2094					(*)	
Jesse Jones Division of Goodmark, Inc	2103					(*)	
Ballard's Farm Sausage, Inc	2108					(*)	
P & H Packing Co., Inc	2211	(*)	(*)			(*)	
Do	2211A		(*)				
Greeley Meat Co	2212	(*)	(*)				
Hardy Packing Co., Inc	2215	(*)		(*)	(*)	(*)	
Yoakum Packing Co., Ltd	2216	(*)				(*)	
Burlison Packing Co	2224	(*)					
Pace Packing Co	2228	(*)				(*)	
Ridley Packing Co	2229	(*)				(*)	
South Texas Packers, Inc	2230	(*)					
L & H Packing—Braun Division	2239	(*)					
Bryan Sausage Co., Inc	2249					(*)	
Colorado State University—Department of Animal Science	2253	(*)	(*)	(*)	(*)	(*)	
Tiny Packing Co	2254	(*)					
Loveland Packing Co., Inc	2259					(*)	
G & C Packing Co	2262	(*)	(*)				
Ridley Packing Co	2265	(*)	(*)			(*)	
L. A. Frey & Sons, Inc	2266A	(*)				(*)	
Western Beef Packers, Inc	2267	(*)					
Wright Packing Co	2269	(*)	(*)			(*)	
Lamesa Meat Co	2272	(*)		(*)		(*)	
Amarillo Packing Co	2273	(*)					
Sunray Meats, Inc	2274	(*)					
Northwest Packing Co	2283	(*)					
Husband Brothers Packing Co	2284	(*)					
Rollins Packing Co	2285	(*)	(*)	(*)		(*)	
Ben Grantham Meat Packers	2290	(*)				(*)	
Dankworth Packing Co	2296	(*)				(*)	
Amana Society Meat Department	2357	(*)					
Theis Packing Co., Inc	2367	(*)				(*)	
Grote Meat Co	2369	(*)	(*)				
Wuestling Packing Co	2370	(*)					
Clayton Packing Co	2373		(*)				
Smit & Son, Inc	2376	(*)				(*)	
Spencer Foods, Inc	2379	(*)					
Partin Sausage Co	2385					(*)	
Marshall Packing Co., Inc	2386	(*)					
Clinton Packing Co	2387					(*)	
Gustav B. Nissen & Son Packing Co	2388	(*)					
C. E. Richard and Sons, Inc	2391	(*)					
United Meat Co., Inc	2396	(*)					
Pony Express Ranch	2398	(*)	(*)			(*)	
South Side Packing Co., Inc	2424	(*)					
Quality Packinghouse, Inc	2435					(*)	
John R. Daily, Inc	2450	(*)				(*)	
Cimpl Packing Co	2460	(*)					
Link Brothers Enterprises	2472	(*)				(*)	
Wenning Packing Co., Inc	2533	(*)					
Bo Packing Co	2586					(*)	
Springfield Dressed Beef, Inc	2590	(*)	(*)			(*)	
Bartlow Brothers, Inc	2595	(*)				(*)	
The Teeters Packing Co	2598					(*)	
Du Quoin Packing Co	2599	(*)				(*)	
J. W. Treuth & Sons, Inc	2612	(*)					
Manassas Frozen Foods	2621A	(*)	(*)	(*)	(*)	(*)	
H. P. Beale & Sons, Inc	2682					(*)	
Yoders Locker Plant	2699	(*)				(*)	
Wagner Provision Co., Inc	2770	(*)	(*)				
Stoeven Brothers	2800	(*)		(*)			
Blue Mountain Meats	2825	(*)		(*)		(*)	
Lewis & McDermott	2847	(*)					
Vista Meat Packing Co., Inc	2854	(*)	(*)	(*)	(*)		
Granite Meat, and Livestock Co	2856	(*)	(*)	(*)	(*)		

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Zweigart Packing Corp.	2863	(*)	(*)	(*)	.....	(*)	.....
Armbrust Meats	2912	(*)	(*)	.....	.....	(*)	.....
Fort Plain Packing Co., Inc.	5074	(*)	(*)	.....	.....	.....	.....
Double A Meat Packing, Inc.	5162	(*)	(*)	(*)	.....	.....	.....
Anthony Parillo, Inc.	5193	(*)	(*)	(*)	.....	(*)	.....
Ralph Packing Co., Inc.	5228	(*)	(*)	.....	.....	.....	.....
Johnston Dressed Beef & Veal Co., Inc.	5300	(*)	(*)	(*)	(*)	.....	.....
Hayes Packing Corp.	5301	(*)	(*)	.....	.....	.....	.....
Morris Mendel & Co.	5309	(*)	(*)	(*)	(*)	(*)	.....
Klinch & Schaller, Inc.	5319	(*)	.....	.....	.....	.....	.....
Hershey Estates Abattoir	5388	(*)	(*)	.....	.....	(*)	.....
Winchester Packing Co., Inc.	5500	(*)	.....	.....	.....	(*)	.....
Amend Packing Co.	5509	(*)	.....	.....	.....	.....	.....
Gibon Packing, Inc.	5511	(*)	.....	.....	.....	.....	.....
Elsheimer Meat Products, Inc.	5516	(*)	.....	.....	.....	.....	.....
Central Foods, Inc.	5519	(*)	.....	.....	.....	(*)	.....
Hewlett Wholesale Meats	5524	(*)	.....	.....	.....	.....	.....
Macon Beef Packers, Inc.	5531	(*)	.....	.....	.....	.....	.....
Sioux-Preme Packing Co.	5537	.....	.....	.....	.....	(*)	.....
Jack Polen Beef, Co., Inc.	5548	(*)	.....	.....	.....	.....	.....
Bonne Terre Sausage Co.	5554	.....	.....	.....	.....	(*)	.....
Iola Meat Processors, Inc.	5555	(*)	.....	.....	.....	(*)	.....
Haviland Brothers Frozen Food Lockers	5565	(*)	.....	.....	.....	(*)	.....
Tama Meat Packing Corp.	5569	(*)	.....	.....	.....	.....	.....
Allied Packing Co.	5572	(*)	.....	.....	.....	.....	.....
Behn's Lean Meats, Inc.	5574	.....	.....	.....	.....	(*)	.....
Herman The German Slaughterhouse	5604	(*)	(*)	(*)	.....	(*)	.....
Junker's Meats Inc.	5606	(*)	(*)	(*)	.....	.....	.....
Alexandria Packing Co.	5623	(*)	(*)	(*)	(*)	.....	.....
Arthur Locker	5627	(*)	.....	(*)	.....	(*)	.....
Lohr's Lockers	5628	(*)	.....	.....	.....	(*)	.....
Holtzen's Certified Meat Processing and Curing.	5630	(*)	(*)	(*)	.....	(*)	.....
Braver Packing Co.	5636	(*)	(*)	.....	.....	.....	.....
Clay Center Meat Co.	5637	(*)	(*)	(*)	.....	(*)	.....
Otte Packing	5638	(*)	(*)	.....	.....	.....	.....
Hometown Packing Co.	5642	(*)	(*)	(*)	.....	(*)	.....
Curtis Packing Co.	5643	(*)	.....	.....	.....	(*)	.....
Daykin Locker Service	5644	(*)	(*)	(*)	.....	(*)	.....
Tatum's Processing Plant	5649	(*)	(*)	(*)	(*)	(*)	.....
Custom Pack, Inc.	5650	(*)	(*)	.....	.....	.....	.....
Verling Locker	5653	(*)	(*)	.....	.....	.....	.....
Butler's Beef Acres	5660	(*)	.....	.....	.....	(*)	.....
North Platte Packing Co., Inc.	5663	(*)	.....	.....	.....	.....	.....
Six Street Processing Plant, Inc.	5664	(*)	.....	.....	.....	.....	.....
Dale's Locker	5666	(*)	(*)	.....	.....	.....	.....
Osceola Locker Inc.	5667	(*)	.....	.....	.....	(*)	.....
Petersburg Locker	5668	(*)	.....	.....	.....	(*)	.....
Yost Pack Inc.	5672	(*)	(*)	(*)	.....	(*)	.....
Hollstein Packing Co.	5673	(*)	(*)	.....	.....	(*)	.....
Hastings Meat Supply, Inc.	5674	(*)	.....	.....	.....	(*)	.....
Flicker Packing Co.	5676	(*)	.....	.....	.....	(*)	.....
Tecumseh Locker	5682	(*)	.....	(*)	.....	(*)	.....
Deersons Meat Plant, Inc.	5690	(*)	.....	.....	.....	(*)	.....
Crete Meat Processors	5695	(*)	(*)	(*)	.....	(*)	.....
O. K. Meat Packing Co., Inc.	6001	(*)	(*)	(*)	.....	.....	.....
William C. Parke & Sons Co.	6003	(*)	.....	.....	.....	.....	.....
University of Nevada—Animal Science Division.	6004	(*)	.....	(*)	.....	.....	.....
Hohener Meat Co., Inc.	6011	(*)	(*)	.....	.....	(*)	.....
University of California—Department of Animal Science.	6012	(*)	(*)	(*)	.....	(*)	.....
Johnson Meat Co.	6016	(*)	(*)	(*)	(*)	(*)	.....
Mount Vernon Meat Co., Inc.	6039	(*)	(*)	(*)	.....	(*)	.....
Pasco Meat Packers, Inc.	6040	(*)	(*)	(*)	.....	(*)	.....
Weber, Inc.	6041	(*)	(*)	(*)	.....	.....	.....
McRae Pack, Inc.	6042	(*)	(*)	(*)	.....	(*)	.....
Florence Packing Co., Inc.	6043	(*)	(*)	.....	.....	.....	.....
Davis Meat Co.	6044	(*)	.....	(*)	.....	(*)	.....
Avila Meat Co.	6046	(*)	(*)	.....	.....	.....	.....
Schenk Packing Co.	6056	(*)	(*)	(*)	.....	(*)	.....
Tulare Meat Co.	6063	(*)	(*)	.....	.....	.....	.....
Redwood Meat Co.	6066	(*)	(*)	(*)	.....	(*)	.....
Klubnikin Packing Co.	6071	(*)	(*)	.....	.....	.....	.....
Grandview Packing Co.	6083	(*)	(*)	(*)	.....	(*)	.....
Arnopole Meat Co.	6084	(*)	(*)	.....	.....	.....	.....

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Kratzig Meat Co.	6110	(*)	(*)	(*)	(*)	(*)	.....
Atwater Meat Co.	6113	(*)	(*)	(*)	(*)	(*)	.....
Mid-Cave Meat Packing Co.	6114	(*)	(*)	.....	.....	(*)	.....
Cedar Packing Co.	6118	(*)	.....	.....	.....	.....	.....
Cuyamaca Meat Co.	6126	(*)	.....	.....	.....	(*)	.....
Circle Bar Meat Co.	6151	(*)	(*)	(*)	.....	(*)	.....
Lewis Meats	6175	(*)	(*)	(*)	.....	(*)	.....
Green Hill, Inc.	6513	(*)	.....	.....	.....	(*)	.....
George H. Meyer Sons, Inc.	6521	(*)	(*)	(*)	.....	(*)	.....
Guard Hill Meats, Inc.	6526	(*)	.....	(*)	(*)	(*)	.....
Gunnoe Sausage Co., Inc.	6541	.....	.....	.....	.....	(*)	.....
Odom Sausage Co., Inc.	6544	.....	.....	.....	.....	(*)	.....
C. Rice Packing Co., Inc.	6545	(*)	(*)	.....	.....	.....	.....
Suffolk Packing Co.	6546	(*)	(*)	(*)	.....	.....	.....
Martin's Abattoir & Wholesale Meats	6547	(*)	(*)	(*)	(*)	(*)	.....
Penn Haven Meats, Inc.	6559	(*)	(*)	.....	.....	(*)	.....
Roland Packing Co.	6563	(*)	(*)	.....	.....	(*)	.....
Edwards Sausage Co., Inc.	6579	.....	.....	.....	.....	(*)	.....
Ledford's Livestock Farm Slaughter Plant	6591A	(*)	(*)	(*)	.....	(*)	.....
City Packing Co.	6594	(*)	(*)	.....	.....	.....	.....
White Packing Co.	6595	(*)	(*)	.....	.....	(*)	.....
Dean Sausage Co., Inc.	6621	.....	.....	.....	.....	(*)	.....
Primeat Packing Co.	6758	(*)	.....	.....	.....	.....	.....
Star Meat Co.	6760	.....	.....	.....	.....	(*)	.....
Standard Beef, Inc.	6770	(*)	.....	.....	.....	.....	.....
Calihan & Co.	6775	(*)	(*)	.....	.....	.....	.....
Helms Slaughterhouse	6777	(*)	.....	.....	.....	(*)	.....
The Ross Abattoir Co.	6780	(*)	.....	.....	.....	.....	.....
Bob Evans Farms, Inc.	6785	.....	.....	.....	.....	(*)	.....
Bergman Meat Packing Co., Inc.	6788	(*)	.....	(*)	.....	(*)	.....
Illini Beef Packers, Inc.	6792	(*)	.....	.....	.....	.....	.....
Bob Evans Farms, Inc.	6807	.....	.....	.....	.....	(*)	.....
Utica Packing Co.	6832	.....	.....	.....	.....	(*)	.....
Marburger Packing Co.	6863	(*)	.....	.....	.....	.....	.....
Nemetz Packing House	6866	(*)	.....	.....	.....	.....	.....
Miller Processing Co., Inc.	6889	(*)	.....	(*)	.....	(*)	.....
Western Illinois Ice Co.	6924	(*)	.....	.....	.....	(*)	.....
Schwartzman Packing Co.	7003	(*)	.....	.....	.....	.....	.....
Deming Packing Co., Inc.	7005	(*)	.....	.....	.....	(*)	.....
Jimmy Dean Meat Co.	7012	.....	.....	.....	.....	(*)	.....
Muskogee Packing Co., Inc.	7015	(*)	(*)	(*)	(*)	(*)	.....
Hatch Packing Co., Inc.	7021	(*)	(*)	(*)	.....	(*)	.....
Sixty Six Packing Co.	7023	(*)	(*)	(*)	(*)	(*)	.....
Western Meat Packers, Inc.	7028	.....	.....	.....	.....	(*)	.....
Webb Packing Co.	7029	.....	.....	.....	.....	(*)	.....
Kachina Packing Co.	7040	(*)	.....	.....	.....	(*)	.....
Crow's Meat Co.	7048	(*)	.....	(*)	.....	(*)	.....
Chef Reddy Meats Co.	7049	(*)	(*)	.....	.....	.....	.....
Brown's Meat Locker	7055	(*)	(*)	(*)	(*)	(*)	.....
Interstate Packing Co.	7056	(*)	(*)	(*)	(*)	(*)	.....
Brown Packing Co.	7064	(*)	.....	.....	.....	(*)	.....
Community Abattoir, Inc.	7075	(*)	(*)	(*)	(*)	(*)	.....
Cessnun Abattoir	7082	(*)	.....	(*)	(*)	(*)	.....
Guillot Packing Co., Inc.	7082	(*)	.....	(*)	(*)	(*)	.....
Heard's Sausage Co.	7088	.....	.....	.....	.....	(*)	.....
Caprock Beef Packers, Inc.	7089	(*)	.....	.....	.....	.....	.....
E-Tex Packing Co.	7122	(*)	(*)	.....	.....	.....	.....
Feliciana Meat Supply	7128	(*)	(*)	.....	.....	(*)	.....
B & B Packing Co.	7146	(*)	.....	.....	.....	(*)	.....
Duffy Boneless Beef Co.	7305	(*)	.....	.....	.....	.....	.....
Metzger Packing Co., Inc.	7306	(*)	.....	.....	.....	.....	.....
Coleman Sausage Co.	7401	.....	.....	.....	.....	(*)	.....
Henry W. Staph	7402	.....	(*)	(*)	.....	.....	.....
Carolina Abattoir, Inc.	7404	(*)	(*)	.....	.....	(*)	.....
Harrisonburg Wholesale Meat Co., Inc.	7420	.....	.....	.....	.....	(*)	.....
Cribbs Sausage Co.	7424	.....	.....	.....	.....	(*)	.....
Contris Packing Co.	7438	.....	.....	.....	.....	(*)	.....
Dinner Bell Meat Products, Inc.	7440	(*)	(*)	(*)	.....	.....	.....
Blue Ridge Beef Plant, Inc.	7445	(*)	.....	.....	.....	.....	.....
Williams Sausage Co.	7455	.....	.....	.....	.....	(*)	.....
F. B. Purnell Sausage Co., Inc.	7464	(*)	.....	.....	.....	(*)	.....
Diamond Meat Co., Inc.	7465	.....	.....	.....	.....	(*)	.....
Field Packing Co., Inc.	7467	(*)	.....	.....	.....	.....	.....
Brundige Sausage Co.	7475	.....	.....	.....	.....	(*)	.....
Fulton County Packing Co.	7485	(*)	(*)	(*)	(*)	(*)	.....
Danville Meat Products	7486	(*)	(*)	(*)	.....	(*)	.....

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
T. M. Landis, Inc.	7517	(*)	(*)				
Dealaman Enterprises, Inc.	7562	(*)				(*)	
Gartner-Harf Co.	7576	(*)	(*)	(*)			
Merwin Packing, Inc.	7600	(*)		(*)		(*)	
Abercrombie Meat	7601	(*)		(*)		(*)	
Millner & Swanick	7602	(*)					
Missouri Valley Meat	7604	(*)					
Schmaltz Meats	7605	(*)		(*)		(*)	
Goldades Butcher Shop	7606	(*)				(*)	
Cedar Ridge Meat Service	7607	(*)		(*)		(*)	
Barnes County Lockers	7608	(*)		(*)		(*)	
Hope Locker Plant	7609	(*)		(*)		(*)	
Casselton Cold Storage	7611	(*)		(*)		(*)	
Great Bend Lockers	7612	(*)		(*)		(*)	
Fairmont Lockers	7615	(*)		(*)		(*)	
Skyberg's	7616	(*)		(*)		(*)	
Monteith Meats	7617	(*)		(*)		(*)	
Park River Locker Plant	7618	(*)		(*)		(*)	
Niagara Lockers	7619	(*)		(*)		(*)	
Bowdon Locker Plant	7620	(*)		(*)		(*)	
Langdon Lockers	7622	(*)				(*)	
Aafedt's Locker Plant	7623	(*)				(*)	
Rocklake Locker Plant	7624	(*)		(*)		(*)	
Aneta Meats	7625	(*)				(*)	
Stanley Locker Service	7632	(*)				(*)	
Davidson's Processing Plant	7633	(*)		(*)		(*)	
Lunde Processing	7634	(*)				(*)	
Dakota Meats, Inc.	7636	(*)	(*)	(*)			
Bud's Food Market	7637	(*)		(*)		(*)	
Myers Meat Processing	7641	(*)		(*)		(*)	
Hillside Meat Co	7642	(*)		(*)		(*)	
City Meat & Locker	7644	(*)	(*)	(*)		(*)	
Wetsch Jack & Jill	7646	(*)		(*)		(*)	
Bosch Meat Co	7647	(*)				(*)	
Fred Born	7648	(*)				(*)	
Schafers Butcher Shop	7649	(*)					
Knute's Meat Processing & Sales	7655	(*)		(*)		(*)	
John Bonn	7656	(*)				(*)	
Valley Meat Packing Co., Inc.	7676	(*)					
City Meat Co.	7677	(*)		(*)		(*)	
Rahr Meat Service	7678	(*)		(*)			
Miles City Packing Co.	7679	(*)		(*)			
Hardin Meat Market	7684	(*)					
Seitz-Bowers Processing Plant	7685	(*)				(*)	
Timberland Packing Corp.	7687	(*)					
Krezelak, Inc. (Havre Abattoir)	7688	(*)	(*)	(*)	(*)	(*)	
Buttrey Food Stores Division	7689	(*)	(*)	(*)	(*)	(*)	
Rocky Mountain Packing Co., Inc.	7690	(*)	(*)	(*)	(*)	(*)	
Triangle Packing Co.	7691	(*)	(*)	(*)	(*)	(*)	
Maria's Packing Co.	7692	(*)	(*)	(*)	(*)	(*)	
Stanford Meat Market	7694	(*)		(*)			
Barsotti's Meat Plant	7695	(*)		(*)		(*)	
Montana State Prison	7707	(*)	(*)			(*)	
Roberts Packing Plant	7708	(*)	(*)	(*)		(*)	
Rick's Packing Co.	7710	(*)	(*)	(*)		(*)	
Fan Mountain Meats	7712	(*)	(*)	(*)		(*)	
Vollmer & Sons, Inc.	7713	(*)	(*)	(*)		(*)	
Kalispell Meat Co.	7716	(*)		(*)			
White's Wholesale Meats	7717	(*)					
Vandervanter Meats	7718	(*)					
Schramm Packing Co.	7719	(*)				(*)	
Tolman Meat Processing	7724	(*)	(*)	(*)	(*)	(*)	
Dales Meat Processing Plant	7781	(*)		(*)		(*)	
Fehr's Sausage & Processing	7788	(*)		(*)		(*)	
Wilson's Meat Market	7790	(*)				(*)	
Carlos Lockers	7796	(*)				(*)	
Ungers Garfield Locker	7797	(*)				(*)	
Bangor Beef Co.	7806	(*)	(*)	(*)		(*)	
Conti Packing Co., Inc.	7814	(*)					
Kenneth Baker Farms	7845	(*)	(*)	(*)	(*)	(*)	
Maplevale Farms, Inc.	7883	(*)	(*)				
Peter D. Villari, Inc.	7887					(*)	
Sam's Meat Packing Co.	7908	(*)				(*)	
Partin's Country Sausage	7923					(*)	
Meherrin Packing Co.	7931					(*)	
Elm Hill Meats, Inc.	7936	(*)				(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY—Continued

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Koch Beef Co.	7937	(*)	(*)				
Charles J. Schmidt & Co.	7948	(*)					
Greggwood Farm	8901				(*)		
Erdman Supermarkets, Inc.	8905	(*)					
Read's Locker	8908	(*)			(*)		
St. Joseph Meat Market, Inc.	8916	(*)			(*)		
Froz-N-Foods Co.	8917	(*)			(*)		
Gordhamer Food Market	8920	(*)			(*)		
Ruck's Meat Processing Center, Inc.	8921	(*)	(*)	(*)	(*)		
Thompson Processing Service	8922	(*)	(*)	(*)	(*)		
Melrose Locker	8927	(*)			(*)		
Froz-N-Food Co.	8930	(*)			(*)		
Plantenberg Market, Inc.	8931	(*)			(*)		
Carson Custom Meat Processing	8948	(*)	(*)	(*)	(*)		
Dave and Ted's Lockers	8950	(*)			(*)		
Fergus Locker Plant	8952	(*)			(*)		
Lakeland Meats, Inc.	8953	(*)	(*)		(*)		
Spikes Lockers	8954	(*)	(*)	(*)	(*)		
City Meat Market	8960	(*)	(*)		(*)		
New Munich Locker Plant	8961	(*)			(*)		
Peters, Inc.	8962	(*)					
Do.	8963				(*)		
Forster Packing Co., Inc.	8966	(*)	(*)	(*)	(*)		
Drewes Frozen Food Center	8971	(*)		(*)	(*)		
Fosston Co-op Association Locker Department	8974	(*)	(*)	(*)	(*)		
City Meat Market	8975	(*)	(*)	(*)	(*)		
Lynch's Foods	8976	(*)			(*)		
Geneva Meats & Processing Service	8979	(*)			(*)		
Greenwald Locker Plant	8982	(*)			(*)		
Joppru, Inc.	8988	(*)			(*)		
Slayton Z-R-O Pac	8989	(*)		(*)	(*)		

Done at Washington, D.C., on January 31, 1972.

KENNETH M. MCENROE,
Deputy Administrator, Meat and Poultry Inspection Program.

[FR Doc.72-1663 Filed 2-4-72;8:50 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 426]

LEON BATTINO AND MERKURIA S.A.R.L.

Order Denying Export Privileges

In the matter of Leon Battino, 149 rue Saint Honore, Paris 1, France, respondent; Merkuria S.A.R.L., 149 rue Saint Honore, Paris 1, France, related party, Case No. 426.

By charging letter dated October 29, 1971, the Director, Compliance Division (formerly designated Investigations Division), Office of Export Control, charged the above respondent with violations of the Export Control Act of 1949 as amended.[1] The transaction which is the basis of the charge is the same as that which was involved in the case against J. A. Goldschmidt S.A., Paris, France, in which an order denying export privileges was issued on July 28, 1971 (36 F.R. 14489). The respondent herein at the time of the transaction was an employee of the Goldschmidt firm and was the individual primarily responsible for the firm's participation in the transaction. The respondent is no longer associated

[1] This act has been succeeded by the Export Administration Act of 1969, Public Law 91-184, approved Dec. 30, 1969, 50 U.S.C. App. sec. 2401-2413. Section 13(b) of the new Act provides, "All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 * * * shall, until amended or revoked remain in full force and effect, the same as if promulgated under this Act".

with the Goldschmidt firm or any of its affiliates.

The charging letter alleges in substance that on November 25, 1968, the respondent, then associated with the Goldschmidt firm, reexported or caused to be reexported from France to Cuba 10,000 metric tons of U.S.-origin triple superphosphate (a fertilizer hereinafter referred to as TSP), valued at $538,000; that respondent knew or had reason to know at the time of reexportation that the TSP was of U.S. origin and that U.S. law prohibited such reexportation without first obtaining authorization from the U.S. Government, which he did not obtain. It is charged that such conduct was in violation of §§ 374.1 and 387.6 of the U.S. Export Control Regulations.

The charging letter was served on respondent on December 1, 1971. He did not respond or file an answer and, pursuant to § 388.4 of the Export Control Regulations, was held in default. At an informal hearing the evidence in support of the charges was presented to the Compliance Commissioner. After considering the evidence the Compliance Commissioner submitted a report which includes findings of fact and conclusions. He recommended the sanction that should be imposed.

On consideration of the record in the case, I confirm and adopt the findings of fact of the Compliance Commissioner.

FINDINGS OF FACT

1. At the time here material and until about March 1, 1971, the respondent, Leon Battino, was an employee of J. A. Goldschmidt S.A. (Goldschmidt), a French corporation that was engaged as a trader and broker in foodstuffs and agricultural chemicals. The respondent was employed as a trader. As such it was his function to sell products for the firm and find sources of supply. His special area of competence was Latin American countries, including Cuba.

2. Sometime prior to September 1968 Battino, on behalf of Goldschmidt, negotiated a contract with a customer in Cuba to supply it with 20,000 tons of TSP.

3. During September 1968 Battino negotiated with the firm Etablissements Gardinier (Gardinier) also a French firm, with its main office in a suburb of Paris, to purchase a quantity of TSP to be used by Goldschmidt in fulfilling its contract with its Cuban customer. Gardinier is a manufacturer of and a dealer in agricultural chemicals. It has several plants in France.

4. Gardinier was pressed by Goldschmidt to furnish the material. Gardinier was unable to supply the TSP from its own stock or facilities or from French sources. It sought to obtain the material elsewhere. After negotiating through a Swiss representative of a U.S. supplier, Gardinier entered into a contract with the said U.S. supplier to purchase 10,000 to 12,000 tons of TSP. Gardinier having found a source of supply for this quantity of TSP, on October 1, 1968, agreed to sell to Goldschmidt a like quantity of TSP. A formal contract was subsequently entered into between the parties.

5. On September 25, 1968, while Gardinier was negotiating to obtain the U.S.-origin TSP, it informed Battino by Telex that it could no longer guarantee delivery of this merchandise because of the impending strike of dockers in the United States. (There was a longshoreman's strike in the United States on October 1 and 2, 1968. Its imminence was widely publicized prior thereto. Legislation requiring the strikers to return to work was invoked and they returned to work from October 3 to December 21, 1968.) This information was sufficient to alert Battino to the fact that Gardinier was negotiating to obtain U.S.-origin TSP to carry out is undertaking with Goldschmidt.

6. In the course of conversations in October 1968 one of the principals of Gardinier who was negotiating with Goldschmidt informed Battino that the TSP it was supplying was of U.S.-origin. Subsequently, sometime before November 5, 1968, Battino acknowledged to the supply director of Gardinier, who also participated in the negotiations, that he (Battino) knew the TSP was of U.S.-origin. Battino stated that this was Gardinier's problem and required Gardinier to furnish a certificate that the TSP it was furnishing was of French origin.

7. Gardinier did furnish a certificate dated November 5, 1968, issued by Chamber of Commerce of Bayonne that the TSP in question was of French origin or manufacture. The TSP after its arrival in France was not altered or processed in any way nor was it mixed with any other ingredient. It was not of French origin or manufacture and respondent knew or had reason to know this prior to November 5, 1968. The respondent knew or had reason to know prior to November 5, 1968, that the TSP in question was of U.S. origin.

8. The TSP in question was exported from the United States on October 16, 1968. It was delivered to Goldschmidt at the port of Bordeaux, France, on October 28, 1968. Approximately 10,500–11,000 metric tons were stored temporarily at dockside. Approximately 10,200 metric tons of the material valued at approximately $538,000 were laden on board a vessel and shipped by Goldschmidt to Cuba on November 25, 1968, arriving in Cuba about a month later. The respondent was responsible for having U.S.-origin TSP supplied to fulfill the contract with the Cuban customer and he was also responsible for the reexportation of said commodity from France to Cuba.

9. The respondent at all times here material knew that it was in violation of the U.S. Export Control Regulations to reexport the U.S.-origin TSP in question to Cuba. The respondent did not obtain authorization from any branch of the U.S. Government to ship the TSP in question from France to Cuba.

Based on the foregoing I have concluded that respondent, in violation of §§ 374.1 and 387.6 of the U.S. Export Control Regulations, reexported and caused the reexportation from France to Cuba of triple superphosphate which he knew was of U.S. origin and that such reexportation was made without authorization from the Office of Export Control which authorization respondent knew was required by said regulations.

The respondent terminated his employment with the Goldschmidt firm at the end of February 1971. At about that time the firm Merkuria S.A.R.L. was established and began operating. The respondent has a substantial financial interest in Merkuria and is one of its principal officials. Pursuant to § 388.1(b) of the Export Control Regulations, I find that to prevent evasion of this denial order it is necessary to make it applicable to Merkuria S.A.R.L. as a related party to respondent.

Now, after considering the record in the case and the report and recommendation of the Compliance Commissioner and being of the opinion that his recommendation as to the sanction that should be imposed is fair and just and calculated to achieve effective enforcement of the law: *It is hereby ordered,*

I. All outstanding validated export licenses in which respondent appears or participates in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. Except as qualified in Part IV hereof, the respondent for a period of 4 years from the effective date of this order is hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the export regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to his representatives, agents, and employees, and also to any person, firm, corporation, or other business organization with which he now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith. A determination has been made that the firm Merkuria S.A.R.L., Paris, France, is a related party to respondent and this order is applicable to said firm.

IV. Two years after the effective date hereof, without further order of the Bureau of International Commerce, the respondent shall have his export privileges restored conditionally and thereafter for the remainder of the denial period the respondent shall be on probation. The conditions of probation are that the respondent shall fully comply with all requirements of the Export Administration Act of 1969, as amended, and all regulations, licenses, and orders issued thereunder.

V. Upon a finding by the Director, Office of Export Control or such other official as may be exercising the duties now exercised by him, that the respondent has knowingly failed to comply with the requirements and conditions of this order or with any of the conditions of probation, said official with or without notice, by supplemental order may revoke the probation of said respondent, revoke all outstanding validated export licenses to which said respondent may be a party and deny to said respondent all export privileges for the remaining period of the order. Such supplemental order shall not preclude the Bureau of International Commerce from taking such further action for any violation as it shall deem warranted. On the entry of a supplemental order revoking respondent's probation without notice he may file objections and request that such order be set aside and may request an oral hearing as provided in § 388.16 of the Export Control Regulations, but pending such further proceedings the order of revocation shall remain in effect.

VI. During the time when the respondent or other persons within the scope of this order are prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with the respondent or other persons denied export privileges within the scope of this order, or whereby said respondent or such other persons may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for the respondent or other persons denied export privileges within the scope of this order; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

This order shall become effective on February 7, 1972.

Dated: January 31, 1972.

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

[FR Doc.72-1658 Filed 2-4-72;8:45 am]

National Oceanic and Atmospheric Administration

[Docket No. S-572]

CHARLES E. SLATER

Notice of Loan Application

JANUARY 31, 1972.

Charles S. Slater, 1106 North Irvine, McMinnville, OR 97128, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 35 feet in length, to engage in the fishery for salmon, albacore, and Dungeness crab off the coasts of California, Oregon, and Washington.

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.72-1727 Filed 2-4-72;8:47 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-269]

DUKE POWER CO.

Order Extending Provisional Construction Permit Completion Date

By application dated December 20, 1971, Duke Power Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-33. The permit authorizes the construction of a pressurized water nuclear reactor designated as the Oconee Nuclear Station Unit 1 at the applicant's site in Oconee County, S.C., approximately 8 miles northeast of Seneca, S.C.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered,* That the latest completion date specified in Provisional Construction Permit No. CPPR-33 is extended from January 31, 1972 to June 30, 1972.

Date of issuance: January 28, 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.72-1700 Filed 2-4-72;8:45 am]

[Docket No. 50-289]

METROPOLITAN EDISON CO.

Order Extending Provisional Construction Permit Completion Date

By application dated October 26, 1971, and supplemental letters dated November 22, 1971, and January 13, 1972; Metropolitan Edison Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-40. The permit authorizes the construction of a pressurized water nuclear reactor designated as the Three Mile Island Nuclear Station Unit No. 1 at the applicant's site on Three Mile Island in the Susquehanna River in Dauphin County, Pa.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered,* That the latest completion date specified in Provisional Construction Permit No. CPPR-40 is extended from December 1, 1971, to September 30, 1973.

Date of issuance: January 21, 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.72-1701 Filed 2-4-72;8:45 am]

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Order Extending Provisional Operating License Expiration Date

Power Reactor Development Co. has filed a request dated November 29, 1971, for an extension of the expiration date of Provisional Operating License No. DPR-9 which authorizes the possession and operation of the Enrico Fermi Atomic Power Plant, a sodium-cooled fast breeder reactor, at thermal power levels not to exceed 200 megawatts located in Monroe County, Mich.; and

Good cause having been shown in the application for this extension pursuant to paragraph 5 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. DPR–9 is extended from December 31, 1971 to February 29, 1972.

Dated at Bethesda, Md., this 25th day of January 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.72–1702 Filed 2–4–72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24177]

SEAGREEN AIR TRANSPORT LTD.

Notice of Prehearing Conference and Hearing Regarding Renewal of Foreign Air Carrier Permit

Renewal of foreign air carrier permit authorizing property transportation serving U.S. Virgin Islands, Puerto Rico, Miami, Fort Lauderdale, and West Palm Beach.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 1, 1972, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Richard M. Hartsock.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before February 22, 1972.

Dated at Washington, D.C., February 1, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72–1735 Filed 2–4–72;8:47 am]

COMMISSION ON HIGHWAY BEAUTIFICATION

HIGHWAY BEAUTIFICATION

Notice of Public Hearing

FEBRUARY 2, 1972.

Notice is hereby given that the Commission on Highway Beautification will have its second public hearing in Los Angeles on February 28.

Los Angeles was chosen as a hearing site in order to give interested parties in the Far West an opportunity to present their views to the members of the Commission on the important issue of highways and their relationship to the environment. Among other things, the Commission is particularly interested in learning about the Western States' experience in compensation paid for the removal of signs.

The Commission was established by the Federal-Aid Highway Act of 1970 (Public Law 605). It has 11 members—four from the Senate, four from the House of Representatives, and three appointed by the President. Congressman Jim Wright (D), Texas is the Chairman. The four Commissioners from the Senate are Birch Bayh (D), Indiana; Mike Gravel (D), Alaska; James Buckley (R), New York; and Lowell Weicker (R), Connecticut. The House members are Chairman Wright; Ed Edmondson (D), Oklahoma; Don Clausen (R), California; Fred Schwengel (R), Iowa. The public members are Alfred Bloomingdale, Chairman of the Board, A. B. Enterprises, Los Angeles, Calif.; Mrs. Marion Fuller Brown, member of the Maine Legislature, York, Maine; and Michael Rapuano, landscape architect, Newton, Pa., and New York City.

The Act directed the Commission to:

(1) Study existing statutes and regulations governing the control of outdoor advertising and junkyards in areas adjacent to the Federal-aid highway system;

(2) Review the policies and practices of the Federal and State agencies charged with administrative jurisdiction over such highways insofar as such policies and practices relate to governing the control of outdoor advertising and junkyards;

(3) Compile data necessary to understand and determine the requirements for such control which may now exist or are likely to exist within the foreseeable future;

(4) Study problems relating to the control of on-premise outdoor advertising signs, promotional signs, directional signs, and signs providing information that is essential to the motoring public;

(5) Study methods of financing and possible sources of Federal funds, including use of the Highway Trust Fund, to carry out a highway beautification program; and

(6) Recommend such modifications or additions to existing laws, regulations, policies, practices, and demonstration programs as will, in the judgment of the Commission, achieve a workable and effective highway beautification program and best serve the public interest.

A report of the Commission's findings will be submitted to the President and the Congress no later than August of this year.

This is the second in a series of five hearings to be held in different sections throughout the country during 1972. The first hearing was in Atlanta on January 31. Other hearings will be held in St. Louis, Washington, D.C., and an as yet undetermined city in the northeast.

This hearing is scheduled for 9:30 a.m. at the Federal Building, 11000 Wilshire Boulevard, Los Angeles.

This is an open hearing and the public is invited both to attend and to participate. The hearing will be one day in length. Those interested in testifying are requested to contact the Commission at 1121 Vermont Avenue NW., Washington, DC 20005, by February 21, and if possible to submit a copy or a brief summary of their testomony by that date.

LEO A. BYRNES,
Staff Director and Counsel.

[FR Doc.72–1749 Filed 2–4–72;8:49 am]

CIVIL SERVICE COMMISSION

GRANT APPLICATIONS

Notice of Cutoff Date for Fiscal Year 1972

Notice is hereby given that pursuant to the notice of cutoff date for fiscal year 1972 published in the FEDERAL REGISTER of October 23, 1971 (36 F.R. 20551), the Bureau of Intergovernmental Personnel Programs and the following Regional Offices of the Civil Service Commission have established the indicated cutoff dates on or before which IPA grant applications must be received for second-round consideration of applications submitted pursuant to section 506(a) of the Intergovernmental Personnel Act of 1970 (sec. 506(a), 84 Stat. 1927).

Commission Office:	*Cutoff date*
Bureau of Intergovernmental Personnel Programs	Apr. 1, 1972.
Atlanta	Apr. 1, 1972.
Chicago	May 16, 1972.
Dallas	Apr. 1, 1972.
New York	Mar. 15, 1972 (single-round).
Philadelphia	Apr. 1, 1972.
San Francisco	May 1, 1972.
St. Louis	Apr. 7, 1972.
Seattle	Apr. 1, 1972.

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

[FR Doc.72–1818 Filed 2–4–72;8:50 am]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, February 22, 1972, commencing at 2 p.m., in the Delaware Room of the Sheraton-Pocono Inn, 1220 West Main Street (exit 48 off Interstate Route 80), Stroudsburg, PA. The subject of the hearing will be a proposal to amend the Comprehensive Plan for the Delaware River Basin so as to include therein a regional liquid waste control plan for the interstate Tocks Island region as described and referenced in this notice.

BACKGROUND

A report entitled "The Tocks Island Regional Environmental Study (TIRES)" has been prepared for the Delaware River Basin Commission by the consulting firm of Roy F. Weston, Inc., Environmental Scientists and Engineers, West Chester, Pa. It presents the results of a study of the problem of water supply and waste disposal in the six-county region of New York, Pennsylvania and New Jersey in which the Tocks Island

Reservoir and the Delaware Water Gap National Recreation Area are being developed. Specifically, the report delineates five alternative wastewater collection and treatment plans representing various degrees of regionalization.

The study area is that portion of the Delaware River Basin in Orange, Pike, Monroe, and Northampton Counties that drains into the Delaware River between the mouth of the Mongaup River and the southern limit of the Delaware Water Gap National Recreation Area, and in Sussex and Warren Counties, above the mouth of Paulins Kill, including the watershed of Paulins Kill.

On December 14, 1971, the Commission held a public hearing in Stroudsburg, Pa., on the Tocks Island Region Environmental Study. Testimony was received from numerous witnesses as to the several alternative wastewater collection and treatment plans delineated in the report.

PROPOSED ACTION

It is now proposed to amend the Comprehensive Plan for the Delaware River Basin so as to incorporate therein the regional liquid waste control plan for the Tocks Island region designated as Alternative V in the Tocks Island Region Environmental Study. Characteristics of regional Alternative V are described in detail in Appendix K, and mapped on Figure 9, of the TIRES report. The regional plan would consist of the following general features:

1. Construction prior to 1980 of a central waste treatment plant to serve the entire Tocks Island region. The plant would be located at or near the confluence of Brodhead Creek and the Delaware River near Minisink Hills, Pa. It would have an initial capacity of about 33 million gallons per day to serve a 1980 population of about 415,000 persons, and would be enlarged to a capacity of 90 million gallons per day to serve a population of about 970,000 persons by 2020. About 15 additional small treatment facilities would be located throughout the region in isolated areas.

2. Construction of about 205 pumping stations and 270 miles of trunk sewer lines by the year 1980. This would be augmented by the addition of about 50 pumping stations and approximately 225 miles of trunk sewer lines by the year 2000. Finally, about 20 pumping stations and 70 miles of trunk sewer lines would be added to the system during the period 2000 to 2020.

LEVELS OF WASTE TREATMENT

The subject plan (Alternative V) is designed to provide 95 percent removal of BOD and soluble phosphorus as an average level of treatment over the period 1970 to the year 2020. It shall be required to provide for removal of not less than 85 percent of BOD and soluble phosphorus no later than 1980. Future levels of treatment shall be subject to the continuing jurisdiction of the Commission and the State in which the plant is located.

COST

The present worth (1970) of the total water quality management costs of the subject regional plan (Alternative V), including construction, operation, maintenance, financing, and monitoring, has been estimated to be $362 million. These costs will be incurred over a 50-year period.

Copies of the report mentioned in this notice may be examined in the library of the Delaware River Basin Commission, 25 State Police Drive, Trenton, NJ, and in the office of the Tocks Island Regional Advisory Council (TIRAC), 612 Monroe Street, Stroudsburg, PA (Telephone: 717-421-9841). The report is also available for inspection in several public offices located throughout the Tocks Island region. TIRAC office may be called to learn a location convenient to you. A written summary of the Tocks Island Region Environmental Study is available upon request to the Delaware River Basin Commission. Persons wishing to testify before the Commission are requested to notify the Secretary no later than 5 p.m. on February 18.

W. BRINTON WHITALL,
Secretary.

JANUARY 28, 1972.

[FR Doc.72-1734 Filed 2-4-72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19268]

RADIO FREQUENCY DEVICES

Comparable Television Tuning Regulation; Order Extending Time

1. Before us is a petition filed on January 25, 1972, by the Electronic Industries Association, asking that the time for filing comment on a petition for reconsideration filed in this proceeding by Philco-Ford Corp. be extended from January 31 to February 25, 1972.[1]

2. In support of its petition, EIA states that additional time is required by receiver manufacturers to study the petition and for coordination of a common filing.

3. It appears that additional time is reasonably required for the purpose sought and that the public interest will be served by providing an adequate period for comment on the petition by receiver manufacturers other than Philco-Ford and by other interested persons.

4. In view of the foregoing, *It is ordered*, Pursuant to § 0.251(b) of the rules and regulations, that the time for filing comment on the petition for reconsideration filed in this proceeding by Philco-Ford Corp. is extended to February 25, 1972.

Adopted: January 27, 1972.

Released: January 31, 1972.

FEDERAL COMUNICATIONS COMMISSION,
[SEAL] JOHN W. PETTIT,
General Counsel.

[FR Doc.72-1752 Filed 2-4-72;8:49 am]

[1] Report and order in this matter was published at 36 F.R. 23563, Dec. 10, 1971.

[Dockets Nos. 19410, 19411; FCC 72-78]

KEY BROADCASTING CORP. AND SOUND MEDIA, INC.

Order Designating Application for Hearing on Stated Issues

In regard applications of: Key Broadcasting Corp., Lexington Park, Md.,[1] Docket No. 19410, File No. BPH-6540, requests: Channel 249; 3 kw.; 300 feet; Sound Media, Inc., Leonardtown, Md., Docket No. 19411, File No. BPH-6886, requests: Channel 249; 3 kw. (H); 3 kw. (V); 300 feet, for construction permits.

1. Now under consideration are the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Accordingly, the applications must be designated for hearing.

2. Based on information contained in the application of Sound Media, Inc., funds of $22,995 will be needed to construct and operate the proposed station for 1 year, as follows: Down payment on equipment, less deposit, $4,140; first-year payments on equipment, including interest, $6,855; first-year operating expenses, $7,000; and miscellaneous expenses, $5,000. To meet this requirement, the applicant claims the availability of $7,000 in existing capital and $25,000 in new capital. The balance sheet submitted does not establish the availability of the existing capital. The $25,000 new capital is from Mr. George E. Clark III, who is a director, 50-percent shareholder and secretary-treasurer of the applicant. To meet his commitment, Mr. Clark has submitted a letter from the First National Bank of St. Mary's, Md., indicating the bank's commitment to lend Mr. Clark $25,000. Since Mr. Clark is providing funds to the corporation, he has submitted a balance sheet as required by paragraph 4(b) section III of the application form. This balance sheet shows no liabilities, and total assets of $2,752, of which only $152 is liquid. The limited amount of assets raises a substantial question, in our view, as to whether the bank loan will, in fact, be available. Accordingly, an issue has been specified.

3. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, a contingent comparative issue will be specified in addition to an issue

[1] Channel 249 is assigned to Leonardtown, Md. Key Broadcasting Corp. proposes to use the channel in Lexington Park, Md., pursuant to § 73.203(b) of our rules.

to determine which of the proposals would better provide a fair, efficient, and equitable distribution of radio services pursuant to section 307(b) of the Communications Act.

4. Key Broadcasting Corp. proposes independent programing, while Sound Media, Inc., proposes to duplicate the programing of commonly owned station WKIK(AM) during the daytime hours when that station is permitted to operate. Therefore, evidence regarding program duplication will be admissible under the contingent comparative issue. The showing permitted under that issue will be limited to evidence concerning the benefits derived from the proposed duplication, and a full comparison of the applicant's program proposals will not be permited in the absence of a specific programing inquiry, Jones T. Sudbury, 8 FCC 2d 360, 10 RR 2d 114 (1967).

5. Except as indicated by the issues set out below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. *Accordingly, it is ordered,* That the applications are designated for hearing in a consolidated proceeding pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent order, on the following issues:

(1) To determine with respect to the application of Sound Media, Inc.:

(a) Whether a bank loan of $25,000 will be available to Mr. George E. Clark III.

(b) Whether, in light of the evidence adduced under the above issue, the applicant is financially qualified.

(2) To determine the areas and populations that would receive FM service of 1 mv/m or better from the respective proposals, together with the availability of other primary (1 mv/m or better for FM) aural services in such areas.

(3) To determine, in light of section 307(b) of the Communications Act, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(4) To determine, in the event that it is concluded that a choice between applicants should not be based solely on considerations relating to section 307(b), which of the proposals would better serve the public interest.

(5) To determine, in light of the evidence adduced under the above issues, which of the applications should be granted.

7. *It is further ordered,* That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

8. *It is further ordered,* That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: January 26, 1972.

Released: February 1, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-1753 Filed 2-4-72;8:49 am]

[Docket No. 19409; FCC 72-77]

NEW LONDON ENTERPRISES, INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of New London Enterprises, Inc., New London, Wis., Docket No. 19409, File No. BP-18100, requests: 1460 kc., 1 kw., DA-1, U for construction permit.

1. The Commission has before it for consideration (i) the above-captioned application; (ii) a letter requesting that the application be dismissed or designated for hearing filed by Laird Broadcasting, Inc., licensee of Station WDUX, Waupaca, Wis.; (iii) a petition for grant without hearing filed by the applicant;[1] (iv) a petition for designation of the application for hearing and for expedited hearing filed by the applicant; (v) a petition to dismiss the application filed by Laird Broadcasting, Inc.,[2] and (vi) pleadings in opposition and reply thereto.

2. As originally filed the proposal of New London Enterprises, Inc., included field intensity measurement data made on three radials (2°, 320°, and 341°) from Station KFIZ, Fond du Lac, Wis. (1450 kc., 250 w., 1 kw.-LS, U). These measurements were submitted for the purpose of establishing that the KFIZ 0.5 mv/m would not overlap the proposed 0.5 mv/m contour in contravention of § 73.37 of the rules.[3] Subsequent to acceptance of the application, the petitioner filed an informal objection and submitted measurement data made on bearings of 341°, 343°, and 2° from KFIZ to establish the extent of the KFIZ 0.5 mv/m contour towards New London. On the basis of these data, the KFIZ 0.5 mv/m would not only overlap the proposed New London 0.5 mv/m contour but would extend beyond its proposed antenna site. In reply pleadings the applicant contends that the measurements filed by the petitioner contain certain infirmities which invalidate the data. Laird has responded to these allegations and contends that its measurements are clearly adequate to establish that the application violates § 73.37 and should be dismissed.

3. In view of the radical disagreement in the measurement data filed by the applicant and petitioner,[4] both parties were advised that a joint field intensity survey should be conducted to resolve the disagreement and that a Commission engineer would be present during the survey. The joint survey, however, was never conducted since the applicant and petitioner failed to agree on the dates the measurements should be made. In order to obtain more information, the Commission conducted its own field survey on KFIZ. During the month of November 1970 field intensity measurements were made on bearings of 341° and 343° from KFIZ and the results confirm the petitioner's finding that the KFIZ 0.5 mv/m contour would overlap the New London 0.5 mv/m contour in violation of § 73.37 of the rules. The applicant was advised of our field survey and furnished with detailed maps showing the measuring locations, as well as the value of field measured at each location. The applicant, however, contends that our measurements, as those submitted by the petitioner, contain certain deficiencies which render the data invalid.

4. In view of the foregoing, the question of whether the proposed operation contravenes the prohibited overlap provisions of § 73.37 of the rules will be resolved in hearing.[5] If evidence received in hearing establishes that the proposal violates § 73.37, the application will be dismissed. In this regard it is significant to note that on one of the radials (343° from KFIZ) measured by the petitioner and the Commission staff, the applicant has not submitted any measurement data. Since overlap along one radial is adequate to establish a violation of § 73.37, the application will be dismissed if it is concluded that the measurements already made on this radial demonstrate that the KFIZ 0.5 mv/m contour overlaps the proposed 0.5 mv/m contour.

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[4] Commissioner H. Rex Lee absent.

[1] In light of the action taken herein, this petition will be dismissed as moot.

[2] This petition was filed subsequent to the applicant's published cutoff date and is procedurally defective. We will, however, treat it as an informal objection pursuant to § 1.587 of the rules, and standing will be presumed since the proposed operation would be located within the service area of WDUX and compete with it for listeners and advertising revenue.

[3] Section 73.37 precludes the acceptance of an application which does not conform with certain prohibited overlap provisions. One of the provisions requires that the 0.5 mv/m daytime contour of a new station must not overlap the 0.5 mv/m daytime contour of an existing station operating on a frequency only 10 kc. removed.

[4] For example, along a bearing of 341° from KFIZ, the measurement data submitted by the petitioner indicates that the KFIZ 0.5 mv/m contour would extend to 43 miles whereas data made by the applicant on this same radial indicates that the contour would extend only approximately 31.5 miles. Moreover, the disagreement in measured fields does not appear to be due to seasonal variations since the measurements along this radial were made during the summer, fall, and winter. We would note that if the KFIZ 0.5 mv/v contour extends to a distance any greater than approximately 32.5 miles along this radial overlap would occur with the 0.5 mv/m contour of the proposal in violation of § 73.37.

[5] Harvest Radio Corporation, 22 FCC 2d 820, 19 RR 2d 12 (1970).

5. Examination of the financial portion of the New London application indicates that $73,283 will be needed to meet first-year construction and operating costs, consisting of: Equipment, $32,133; professional fees, $1,500; miscellaneous costs, $7,500; and operating expenses for the first year, $32,150. The applicant proposes to meet these costs with cash available from its FM construction fund, $3,450; profits from the first-year's operation, $25,000; and a bank loan of $50,000, for a total of $78,450. The bank loan commitment letter, however, does not indicate the amount of collateral or security required and is thus defective, and the $25,000 in expected revenues fails to meet the Ultravision test.[6] Accordingly, a financial issue is required.

6. Finally, the applicant has made only a marginal attempt to comply with requirements set forth in the Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 1507 (1971). The applicant, therefore, fails to meet the programing criteria, and an issue will be added to afford New London Enterprises, Inc., an opportunity to show the steps taken to ascertain community needs and interests and the manner in which its service may be responsive to those needs and interests.

7. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

8. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether the proposed 0.5 mv/m contour would overlap the 0.5 mv/m coutour of Station KFIZ, Fond du Lac, Wis., in contravention of section 73.37 of the Commission rules.

(2) To determine, with respect to the application of New London Enterprises, Inc.:

(a) The nature of security, if any, and the terms of repayment for the bank loan;

(b) The basis of the applicant's estimated revenues for the first year of operation; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

(3) To determine the efforts made by the applicant to ascertain the community needs and interests of the areas to be served and the means by which they propose to meet those needs and interests.

(4) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interests, convenience, and necessity.

9. *It is further ordered,* That, the informal objections of Laird Broadcasting, Inc., licensee of Station WDUX, Waupaca, Wis., are granted to the extent indicated above and are denied in all other respects; and that the petition for grant without hearing filed by the applicant is dismissed as moot.

10. *It is further ordered,* That Laird Broadcasting, Inc., licensee of Station WDUX, Waupaca, Wis., is made a party to the proceeding.

11. *It is further ordered,* That, to avail itself of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

12. *It is further ordered,* That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly and consistent with the rules, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: January 26, 1972.

Released: February 1, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[7]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72-1754 Filed 2-4-72;8:49 am]

[Docket Nos. 19407, 19408; FCC 72-76]

TROY RADIO, INC., AND PIKE BROADCASTING, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Troy Radio, Inc., Troy, Ala., Docket No. 19407, File No. BPH-7253, requests: Channel 289; 100 kw.(H); 100 kw.(V); 412.6 feet; Pike Broadcasting, Inc., Troy, Ala., Docket No. 19408, File No. BPH-7303, requests: Channel 289; 100 kw.(H); 100 kw.(V); 397 feet, for construction permits.

1. The Commission has under consideration the captioned applications, which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. A hearing is therefore required.

2. Based on the information submitted in the application of Troy Radio, Inc., funds of at least $70,055 will be needed to construct and operate the proposed station for 1 year, as follows: Deposit on equipment lease, $2,852; first-year payments on equipment lease, $13,662; land, $3,772; buildings, $1,000; interest on loans, $3,181; first-year operating expenses, $41,302; and miscellaneous expenses, $4,286. However, the applicant states that the estimate for the building to house the proposed operation represents a down payment of $1,000. The estimate was based on a verbal discussion. No agreement to that effect, mortgage, or other deferred credit plan has been submitted. Accordingly, an issue will be specified to determine the cost to the applicant of obtaining the proposed studio/transmitter building. The applicant's funds-required figure will, of course, be increased to the extent that this cost exceeds $1,000. To meet its financial requirements, the applicant claims the availability of loans of $58,520 from Mr. Albert H. Goree, and $9,000 from a stock subscription and a loan of $3,500 from Mr. Albert G. Goree, for a total of $71,020. While Mr. Albert H. Goree has demonstrated that he will have sufficient funds to meet his commitment, Mr. Albert G. Goree's balance sheet does not show that he has current and liquid assets in excess of current liabilities in sufficient amount to enable him to meet his commitment. Accordingly, an issue will be specified in this regard.

3. Both applicants proposed to locate their respective main studios at their transmitter sites outside the city limits of Troy. Each applicant has indicated that the proposed studio site will be readily accessible to the residents of Troy and that such a location will result in economies of operation. We believe that good cause has been shown for so locating the main studios and that the locations proposed would not be inconsistent with the operation of the station in the public interest. We will provide, therefore, that in the event of a grant of either application, our consent to the studio location will be granted, pursuant to § 73.210(a)(3) of our rules.

4. Except as indicated by the issues set out below, each of the applicants is qualified to construct and operate as proposed. However, because of their mutual exclusivity, we are unable to make the statutory finding that a grant of either application would serve the public interest, convenience, and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

5. Accordingly, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine with respect to the application of Troy Radio, Inc.:

(a) The cost of obtaining the proposed studio/transmitter building, and, to the extent that this costs more than $1,000, the additional funds required by the applicant to construct and operate the proposed station for 1 year;

(b) Whether Mr. Albert G. Goree has sufficient current and liquid assets of

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[6] Ultravision Broadcasting Company, 1 FCC 2d 544, 5 RR 2d 343 (1965).

[7] Commissioner H. Rex Lee absent.

current liabilities to enable him to meet his commitment to the applicant, or whether the applicant has available other sources of funds to meet its requirements; and

(c) Whether, in light of the evidence adduced under the above issues, the applicant is financially qualified.

(2) To determine, on a comparative basis, which of the proposals would better serve the public interest.

(3) To determine in light of the evidence adduced under the above issues, which of the applicants for a construction permit should be granted.

6. *It is further ordered,* That consent to locate the station's main studio outside the city limits of Troy shall be granted pursuant to § 73.210(a)(3) of the Commission's rules.

7. *It is further ordered,* That the applicant shall file a written notice stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

8. *It is further ordered,* That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: January 26, 1972.

Released: February 1, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-1755 Filed 2-4-72;8:50 am]

[1] Commissioner H. Rex Lee absent.

[Canadian List 286]

CANADIAN BROADCAST STATIONS

Notification List

JANUARY 27, 1972.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kw	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		680 kHz							
CFTR (now in operation)	Toronto, Ontario, N. 43°34' 48", W. 79°38'30".	10D/25N	DA-2	U	II				
		1380 kHz							
CFDA (correction to coordinates)	Victoriaville, Quebec, N. 46° 02'25", W. 72°01'03".	1	DA-N ND-D-197	U	III				
CJVB (assignment of call letters)	Vancouver, British Columbia, N. 49°11'36", W. 123° 00'39".	*1470 kHz* 10	DA-2	U	III				
		1490 kHz							
NEW	Coleman, Alberta, N. 49°37' 39", W. 114°27'59".	1D/0.25N	ND-236	U	IV	330	120 120	300 40	E.I.O. 1-27-73.
CKGO (assignment of call letters)	Hope, British Columbia, N. 49°23'15", W. 121°25'42".	*1490 kHz* 0.25	ND-186	U	IV	150	120	204 (AVE)	

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-1756 Filed 2-4-72;8:50 am]

FEDERAL RESERVE SYSTEM

C-M CO., INC.

Formation of Bank Holding Company

The C-M Co., Inc., Medicine Lodge, Kans., 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 registered bank holding company through retention of 90 percent or more of the voting shares of Isabel State Bank, Isabel, Kans. 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 Kansas City. 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 March 1, 1972.

Board of Governors of the Federal Reserve System, January 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-1736 Filed 2-4-72;8:47 am]

C-M CO., INC.

Proposed Acquisition of The Clyde S. Boots Insurance Agency

The C-M Co., Inc., Medicine Lodge, Kans., 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 the assets of The Clyde S. Boots Insurance Agency, Isabel, Kans. Notice of the application was published on January 6, 1972, in the Barber County Index, a newspaper circulated in Barber County, Kans.

Applicant states that the proposed subsidiary would engage in the activities of a general fire and casualty insurance agency in Isabel, Kans., a community with less than 5,000 people. 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 Kansas City.

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 March 1, 1972.

Board of Governors of the Federal Reserve System, January 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-1708 Filed 2-4-72;8:46 am]

FIRST BANK SYSTEM, INC.

Order Approving Acquisition of IDS Credit Corp.

First Bank System, Inc., Minneapolis, Minn., a bank holding company registered under the Bank Holding Company Act, as amended, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire 100 percent of the voting shares of IDS Credit Corp. (IDSCC), Minneapolis, Minn. Notice of the application affording opportunity for interested persons to submit comments and views has expired and all received have been considered.

Making or acquiring loans or other extensions of credit and selling group credit life and disability insurance are activities that the Board has previously determined to be closely related to banking (12 CFR 225.4(a) (1) and (9)). A bank holding company may acquire a company engaged in this activity so long as the proposed acquisition is consistent with the relevant factors specified in section 4(c)(8) of the Act.

Applicant has 86 bank subsidiaries, located in Minnesota, North Dakota, South Dakota, Montana, and Wisconsin. By virtue of its control of 49 banks in Minnesota holding $2.7 billion in deposits, which sum represents 28.5 percent of deposits in commercial banks in the State, applicant is the largest banking organization in Minnesota. Within the Minneapolis-St. Paul Standard Metropolitan Statistical Area (SMSA), applicant controls 16 banks holding $1.6 billion in deposits constituting 39.7 percent of deposits in commercial banks in the Minneapolis-St. Paul SMSA, and is the largest banking organization in that SMSA. (All deposit data are as of June 30, 1971, whereas all market share data are as of June 30, 1970.) Although all 86 commercial banking subsidiaries make direct consumer installment loans, only five purchased dealer-originated home improvement installment contracts in 1970. The aggregate amount of such contracts was $52,657.

IDSCC, a wholly owned subsidiary of Investors Diversified Services, Inc. (IDS), is a sales finance company that purchases and services dealer-originated home improvement installment contracts. Through its wholly owned subsidiary, Empire Loan and Thrift Co., Minneapolis, Minn. (Empire), IDSCC makes direct consumer loans and purchases dealer-originated automobile installment contracts. IDSCC also operates IDS Homes Corp., Dublin, Ga., which purchases mortgages on low-priced homes, and IDS Credit Corp. of Texas which makes direct consumer loans through four offices in Texas. IDSCC operates 19 offices in 21 States. With the exception of its corporate home office and a sales finance office in Minneapolis, these offices operate outside of the Ninth Federal Reserve District in various Midwestern and Southern States. Empire operates throughout Minnesota from a single office located in Minneapolis.

As of December 31, 1970, IDSCC was the 98th largest finance company in the nation and as of September 30, 1971, IDSCC held unpaid credit balances (outstandings) of approximately $87.1 million. However, IDS has already purchased approximately $50.8 million of IDSCC's outstandings and prior to consummation of the proposed acquisition, IDS will acquire $36.3 million in outstandings of IDSCC in exchange for an assumption of the liabilities of IDSCC. Similarly, IDS will purchase the outstandings of IDS Homes Corp. The outstandings of Empire and IDS Credit Corp. of Texas will be retained by those subsidiaries. Upon consummation of the proposed transaction, IDSCC will have total assets of approximately $7 million and net worth of $1.5 million.

Since applicant's present subsidiaries do not compete outside of the 9th Federal Reserve District, the proposed acquisition of IDSCC would not affect existing competition outside of the Ninth Federal Reserve District. Therefore, prospects for significant potential competition between applicant and IDSCC outside of the Ninth District are slight.

Within the 9th District, the two Minneapolis offices of IDSCC purchase dealer-originated home improvement installment contracts originating in Minnesota and northwestern Wisconsin; such outstandings amounted on September 30, 1971, to approximately $5.7 million. Although these contracts will be sold to IDS prior to consummation of the proposed transaction, it may be assumed that the outstandings of this type will be rebuilt by IDSCC if the acquisition is consummated. In any case, there is little existing competition between applicant's subsidiaries and IDSCC in view of the insignificant extent of the involvement of those subsidiaries in the secondary market for home improvement paper. Although, given applicant's substantial financial resources, there exists a possibility that it might expand its presently limited activities in the home improvement paper market, there is no indication that such an expansion is probable. In this sense, the proposed acquisition may have only a slightly adverse effect.

Applicant's subsidiaries and Empire both make direct consumer loans in the Minneapolis-St. Paul SMSA. However, Empire primarily makes consumer loans of a higher risk quality than commercial banks would, as a rule, make. Furthermore, Empire—which as of December 31, 1970, had outstanding loans and paper of $0.9 million—is not a significant competitor in the consumer loan business in the Minneapolis-St. Paul SMSA, being one of the smallest of the 138 consumer finance companies in the SMSA. It is estimated that applicant through its subsidiaries holds approximately 16 percent of outstanding consumer loans in the SMSA and thereby is the largest consumer lender. It would appear that neither existing nor potential significant competition in consumer lending in the SMSA would be foreclosed by consummation of the proposed acquisition.

Based upon the foregoing, and the record before it, the Board concludes that the proposed acquisition would have no adverse effects on existing competition and only slightly adverse effects on potential competition in Minnesota and northwestern Wisconsin. It is expected that, following consummation of this proposal, applicant will encourage expansion by IDSCC into new geographic markets outside the 9th District and into new areas of finance activity and that none of this expansion will occur within the 9th District. Assuming that this expansion would be by internal growth rather than by acquisition, the public interest would be served by both added convenience and increased competition. On balance, the Board concludes that these public benefits outweigh any possible adverse effects on competition.

Based upon the foregoing and other considerations reflected in the record,[1] the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[2] January 27, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-1709 Filed 2-4-72;8:46 am]

FEDERAL POWER COMMISSION

[Dockets Nos. CI68-703, etc.]

BANQUETE GAS CO. ET AL.

Order Consolidating Proceedings, Granting Intervention, Setting Hearing Date and Prescribing Procedure

Banquete Gas Co., a division of Crestmont Oil & Gas Co., Dockets Nos. CI68-703, CI70-1113, CI71-633, CI71-634, CI71-635, CI71-636, CI71-637; Frank A. Morrison, Docket No. CI68-590; James E. Warren, Docket No. CI68-946; S. A. Story, Docket No. CI68-1034; Edwin G. Ward, doing business as Pemac Co., Docket No. CI69-229; Gulf Coast Natural Gas

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[1] Dissenting Statements of Governors Robertson and Brimmer are filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Minneapolis.

[2] Voting for this action: Chairman Burns and Governors Daane, Maisel, and Sheehan. Voting against this action: Governors Robertson and Brimmer. Absent and not voting: Governor Mitchell.

Co., Docket No. CI69–1161; American Petrofina Company of Texas (Operator) et al., Dockets Nos. CI71–592, CI71–602; William D. Johnson, Docket No. CI71–638; Perry R. Bass, Inc., agent for Perry Bass Enterprises Production Co., Docket No. CI71–639; J. B. Gardner, doing business as Nueces Well Service, Docket No. CI71–640; W. J. Riley (Operator) et al., Docket No. CI71–641; H. F. Boester, Docket No. CI71–642; B. F. Ussery, doing business as Melba Production Co. (Operator) et al., Docket No. CI71–644; Texaco, Inc., Docket No. CI71–651; Atlantic Richfield Co., Docket No. CI71–680; Afroma Oil & Gas Co., Inc. (Operator) et al., Docket No. CI71–731; Ben D. Marks (Operator) et al., Docket No. CI71–732; W. J. Riley, Docket No. CI71–733; Ben D. Marks et al., doing business as Tri-Mark Oil Co. (Operator) et al., Docket No. CI71–734; W. J. Riley, doing business as W. J. Riley Petroleum Co., Dockets Nos. CI71–735, CI71–738; Fred Bowman, Docket No. CI71–736; Lee Carter (Operator) et al., Docket No. CI71–737; Logue and Patterson (Operator) et al., Dockets Nos. CI71–739, CI71–745; Ramada Oil and Gas Company, agent for B. C. Garnett et al., Dockets Nos. CI71–740, CI71–748; M. E. Cassiday, Jr., Trustee (Operator) et al., Docket No. CI71–741; Minnie Belle Heep et al., Docket No. CI71–742; Ragsdale, Pierce & Crain (Operator) et al., Docket No. CI71–743; Wiley W. Singleton, CI71–744; Hunter Bros. & Wallace, Inc., Docket No. CI71–746; Huisache Operating Co. (Operator) et al., Docket No. CI71–747; John W. Herndon (Operator) et al., Docket No. CI71–754.

On March 3, 1971, Banquete Gas Co., a division of Crestmont Oil and Gas Co. (Banquete), filed an application pursuant to section 7(b) of the Natural Gas Act, seeking permission and approval of the Commission to abandon service to United Gas Pipe Line Co. (United) from various fields in Wharton and San Patricio Counties, Texas District Nos. 3 and 4. In support of its application, Banquete alleges the depletion of reserves and an inability to operate its gathering system economically.

The above-named producers, who sell gas to Banquete for resale to United, have also filed related applications for abandonment of sales to Banquete, asserting a lack of present production and Banquete's filing as reasons therefor.

A timely petition requesting leave to intervene in those dockets involving Banquete was filed by United on April 16, 1971. United opposes the proposed abandonment on the ground that its gas supply situation is "quite critical" and that the volumes of gas herein involved would have to be replaced with new supplies.

Because the applications of Banquete and the applications of the above-named producers involve matters that are interdependent they should be consolidated and heard together. Because of the allegation of uneconomical operation, an appropriate issue to be explored during the course of these proceedings is what rate increase, if any, would be necessary to make the sale and delivery of gas economically feasible.

United's petition to intervene should be granted because United, as the purchaser of gas from Banquete, has a direct interest which is not adequately represented by any other to the proceedings.

The Commission finds:

(1) The proceedings in the above dockets are interdependent and should therefore be consolidated.

(2) It is desirable and in the public interest to allow United Gas Pipe Line Co. to intervene in these consolidated proceedings in order that it may establish the facts and the law from which the nature and validity of its alleged interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in these proceedings be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders:

(A) The applications in the above dockets are hereby consolidated.

(B) United Gas Pipe Line Co. is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(C) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing on the issues presented in the applications will be held commencing March 21, 1972, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426. The hearing shall begin with admission into the record of Banquete's case, subject to appropriate motions, followed by cross-examination of Banquete's witnesses, to be then followed by the presentation of the remaining producer applicants' cases in the order to be fixed by the examiner. Following thereafter, the intervenor shall present its testimony.

(D) On or before February 15, 1972, Banquete and the above named producer applicants shall prepare and serve their direct testimony and exhibits in support of their respective applications.

(E) The intervenor shall prepare and serve its prepared testimony and exhibits, if any, in support of its position and in response to the submittals made in compliance with ordering paragraph (D) above on all parties to this proceeding, on or before Feburary 29, 1972. All evidence shall be filed with the Commission and served on all parties and the Commission Staff.

By the Commission.

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

[FR Doc.72–1746 Filed 2–4–72;8:48 am]

[Docket No. E–7685]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Order Accepting for Filing

JANUARY 27, 1972.

Order accepting for filing and suspending original tariff, providing for hearing, establishing procedures, denying motion for rejection, and admitting interventions.

Central Vermont Public Service Corp., a public utility subject to the jurisdiction of this Commission, on November 29, 1971, tendered for filing in Docket No. E–7685 a proposed Original FPC Electric Tariff, original sheets 1 through 20, together with supporting documents as required by the Commission's regulations under the Federal Power Act, particularly section 35.13 thereof. Central Vermont's proposed tariff would increase resale rates to its wholesale customers by a total of $750,933 on a 1970 test year basis. A fuel cost adjustment clause is included in the proposed rates.

The company requests an effective date of January 28, 1972, where permitted by contractual agreements, or the earliest date thereafter when and as permitted by the remaining contracts. Specifically, the company proposes that its proposed increased rates be made effective as of (1) January 28, 1972, for the village of Lyndonville, Vermont Electric Cooperative, Inc., Allied Power and Light Co., and Central Vermont's wholly owned subsidiary, Connecticut Valley Electric Co., (2) November 17, 1972, for the villages of Hyde Park, Johnson, and Ludlow; and Rochester Electric Light and Power Co. (Rochester), and (3) October 28, 1973, for Vermont Electric Cooperative, Inc. at the Richmond and Williston delivery points.

In support of its filing, Central Vermont states it is in a difficult financial situation, having recently sustained a severe decline in earnings. It further states that its interest coverage is below that required under the terms of its bond indentures, and as a result the company is currently precluded from issuing new long term debt.

Notice of Central Vermont's rate increase application was issued on December 9, 1971. Said notice provided that any protests or petitions to intervene should be filed on or before December 29, 1971. This date was subsequently extended to January 7, 1972. On January 7, 1972, two protests and petitions to intervene were filed, one by the Vermont Electric Cooperative, Inc., the other by Central Vermont's municipal customers together with Allied and Rochester. Petitioners argue, inter alia, that the proposed rate increase is excessive, that it is inconsistent with the Government's Economic Stabilization Program, and that the rate design of the new tariff is improper and unlawful. Vermont Electric Cooperative in its petition also requests the proposed rate increase for service to its Richmond and Williston delivery points be rejected by the Commission as premature since

such increase is not proposed to become effective until October 28, 1973.

A review of Central Vermont's rate filing, and the protests, petitions to intervene, and motions filed in response thereto indicates that the company's proposed tariff should be accepted for filing and suspended, that the petitions to intervene should be granted, and that the issues raised by the pleadings should be resolved on the basis of an evidentiary record to be established upon hearing. Accordingly the company's proposed rate increase will be suspended for a period of 5 months, and when placed into effect after the suspension period, it will be made subject to refund of all amounts found by the Commission after hearing not to be justified, together with interest on any amount refunded.

We note that the company's filing is based upon a 1970 test period. In view of the fact that data for the year 1971 should now be available, the Presiding Examiner should consider the use of a more current test period. In this connection our regulations under the Federal Power Act do not require the use of a calendar year test period and we prefer the use of the latest actual data available.

The Commission finds:

(1) It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, services, and other provisions of Central Vermont's proposed FPC Electric Tariff, and that such tariff be suspended, and the use thereof deferred as herein provided.

(2) The petitions to intervene in this proceeding as noted above should be granted.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the rates, charges, classifications, services, and other provisions contained in Central Vermont's proposed FPC Electric Tariff, commencing with a prehearing conference to be held on May 24, 1972.

(B) Pending such hearing and decision thereon, Central Vermont's proposed FPC Electric Tariff, Original Volume No. 1, consisting of original sheets 1 through 20, is hereby accepted for filing, suspended, and its use deferred until June 28, 1972.

(C) At the prehearing conference on May 24, 1972, the direct evidence of the company and the staff shall be admitted into the record, and procedures adopted for an orderly and expeditious hearing.

(D) On or before May 17, 1972, the Commission staff shall serve its prepared testimony and exhibits if any. The prepared testimony and exhibits of the intervenors shall be served on or before June 1, 1972. Any rebuttal evidence by Central Vermont shall be served on or before June 22, 1972. Cross-examination of the evidence filed shall commence at 10 a.m. on June 27, 1972, in a hearing room of the Federal Power Commission.

(E) The motion of Vermont Electric Cooperative, Inc. for rejection of the subject rate increase applicable to the Richmond and Williston delivery points is denied.

(F) Vermont Electric Cooperative, Inc., the villages of Hyde Park, Johnson, Ludlow, and Lyndonville, Vt., Allied Power and Light Co., and Rochester Electric Light and Power Co. are hereby permitted to intervene in this proceeding subject to the Commission's rules of practice and procedure.

(G) A Presiding Examiner to be designated by the Chief Examiner for that purpose shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the terms of this order, the Commission's rules and regulations, and the Federal Power Act.

By the Commission.

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

[FR Doc.72-1703 Filed 2-4-72;8:45 am]

[Docket No. CP72-183]

CONSOLIDATED GAS SUPPLY CORP. AND TEXAS GAS TRANSMISSION CORP.

Notice of Joint Application

JANUARY 28, 1972.

Take notice that on January 18, 1972, Consolidated Gas Supply Corp. (Consolidated), 445 West Main Street, Clarksburg, WV 26301, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, KY 42301, filed in Docket No. CP72-183, a joint application for a certificate of public convenience and necessity authorizing the exchange of natural gas through applicant's existing facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants seek authorization for Texas Gas to deliver to Columbia Gulf Transmission Co. (Columbia Gulf) in Block 250, Eugene Island Area, offshore Louisiana, for the account of Consolidated up to 20,000 Mcf of natural gas per day and for Consolidated to redeliver equivalent volumes of gas to Texas Gas at the western terminus of the Blue Water System near Egan, La., or at some other agreeable point along Texas Gas's system in southern Louisiana. Texas Gas proposes to deliver gas to Columbus Gulf until November 1, 1972, and Consolidated proposes to redeliver gas to Texas Gas prior to December 31, 1975. In view of the delay in the redelivery of natural gas, applicants propose that Consolidated pay Texas Gas 26 cents per Mcf for the gas which Texas Gas delivers to Columbia Gulf for the account of Consolidated and that upon redelivery Texas Gas pay to Consolidated 26 cents per Mcf plus the transportation cost from Eugene Island Area to Texas Gulf's pipeline in southern Louisiana.

Applicants state that the purpose of the exchange is to insure an adequate supply of natural gas for injection into Consolidated storages thereby assisting Consolidated in meeting its 1972-73 winter season requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-1704 Filed 2-4-72;8:45 am]

[Docket No. CP72-26]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition to Amend

JANUARY 27, 1972.

Take notice that on January 18, 1972, Michigan Wisconsin Pipe Line Co. (petitioner), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72-26, a petition to amend the order of the Commission heretofore issued in said docket pursuant to section 7(c) of the Natural Gas Act on November 4, 1971, so as to authorize an increase in the storage service currently being rendered for Central Indiana Gas Co., Inc. (CIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner states that it has entered into an agreement with CIG to increase the storage service, which it currently renders to CIG, in order to assist CIG

in meeting its firm peak day requirements and to minimize to the extent possible the severe impact which Panhandle Eastern Pipeline Co., CIG's gas supplier, might cause due to its curtailment program. Petitioner seeks authorization to increase the annual storage volume under the storage agreement from 700,000 to 1,500,000 Mcf of natural gas and the daily redelivery rate from 7,000 Mcf to 15,000 Mcf. Petitioner further states that these increases are not significant in terms of its transportation and storage capacities, and that the additional service requires the construction of no new facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-1705 Filed 2-4-72;8:45 am]

[Docket No. E-7686]

GULF POWER CO.

Order Accepting for Filing and Suspending FPC Electric Tariff, Providing for Hearing, Establishing Procedures, Denying Motion to Reject, and Permitting Interventions

JANUARY 31, 1972.

Gulf Power Co., a public utility subject to the jurisdiction of this Commission, on December 1, 1971, tendered for filing in Docket No. E-7686 a proposed original FPC Electric Tariff, Original Sheets 1 through 25, together with supporting documents as required by the Commission's regulations under the Federal Power Act, particularly section 35.13 thereof. Gulf Power's proposed tariff would increase the rates for electric service to its wholesale customers by $794,982 annually on a 1970 test year basis.

The company requests an effective date of February 1, 1972, where permitted by existing service agreements, or the earliest date thereafter when and as permitted by the remaining service agreements. The company proposes to give notice of termination of all such service agreements in accordance with their terms, and intends concurrently with the termination date of each service agreement to apply the proposed tariff.

In support of its filing, Gulf Power states the proposed rates will provide increased revenues which will permit the company to earn a more nearly compensatory return upon its property devoted to service to its rural electric cooperative association customers. The company alleges present rates are too low to permit it to earn a compensatory return on this investment.

Notice of Gulf Power's rate increase application was issued on December 9, 1971. Said notice provided that any protests or petitions to intervene should be filed on or before January 7, 1972. On January 4, 1972, Gulf Coast Electric Cooperative Inc., joined by three other distribution cooperatives,[1] and Alabama Electric Cooperative, Inc., a generation and transmission cooperative, filed a joint protest, motion to reject Gulf Power's proposed rate increase, and petition to intervene. Florida Public Utilities Co. filed a petition to intervene on January 7, 1972, The cooperatives argue that Gulf Power's proposed rate increase is excessive, that it is inconsistent with the Government's economic stabilization program, and that certain provisions of the company's proposed tariff are improper and unlawful. In addition, the cooperatives request the company's proposed increase be rejected as premature because the service agreements covering most of the delivery points between the company and the cooperatives expire more than 90 days beyond the filing date of December 1, 1971.

Gulf Power on January 14, 1972, filed an answer to the cooperatives' petition, protest, and motion. Gulf Power opposes the intervention of Alabama Electric Cooperative, claiming that Alabama Electric is not a customer of Gulf Power, and that there is no basis for admitting Alabama Electric as a party intervenor. The company also takes issue with the statements to the effect that its filing is inconsistent with the economic stabilization program and that it is premature.

A review of Gulf's Power's rate increase application and the protest, motion to reject, and petitions to intervene filed in response thereto, indicates that the company's proposed tariff should be accepted for filing and suspended, that the petitions to intervene, including that of Alabama Electric, should be granted, and that the issues raised by the pleadings should be resolved on the basis of an evidentiary record to be established upon hearing. Accordingly the company's proposed rate increase will be suspended for a period of 5 months, and when placed into effect after the suspension period, it will be made subject to refund of all amounts found by the Commission after hearing not to be justified, together with interest on the amount refunded.

The Commission finds:

(1) It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, services, and other provisions of Gulf Power Co.'s proposed FPC electric tariff, and that such tariff be suspended, and the use thereof deferred as herein provided.

(2) Alabama Electric Cooperative may have an interest in this proceeding not adequately represented by other parties, and its petition to intervene and the other petitions to intervene filed herein should be granted.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the rates, charges, classifications, services and other provisions contained in Gulf Power Co.'s proposed FPC electric tariff, commencing with a prehearing conference to be held on May 9, 1972.

(B) Pending such hearing and decision thereon, Gulf Power Co.'s proposed FPC Electric Tariff, Original Volume No. 1, consisting of Original Sheets 1 through 25, is hereby accepted for filing, suspended, and its use deferred until July 1, 1972.

(C) At the prehearing conference on May 9, 1972, the direct evidence of company and the staff shall be admitted into the record, and procedures adopted for an orderly and expeditious hearing.

(D) On or before May 2, 1972, the Commission staff shall serve its prepared testimony and exhibits, if any. The prepared testimony and exhibits of the intervenors shall be served on or before May 23, 1972. Any rebuttal evidence of Gulf Power shall be served on or before June 16, 1972. Cross-examination of the evidence filed shall commence at 10 a.m., e.d.t., on June 21, 1972, in a hearing room of the Federal Power Commission.

(E) The motion of the cooperatives for rejection of the subject rate increase application by Gulf Power is denied.

(F) Gulf Coast Electric Cooperative, Inc., Choctawhatchee Electric Cooperative, Inc., West Florida Electric Cooperative Association, Inc., Escambia River Electric Cooperative, Inc., Alabama Electric Cooperative, Inc., and Florida Public Utilities Co. are hereby permitted to intervene in this proceeding subject to the Commission's rules of practice and procedure.

(G) A Presiding Examiner to be designated by the Chief Examiner for that purpose shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the terms of this order, the Commission's rules and regulations, and the Federal Power Act.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-1747 Filed 2-4-72;8:48 am]

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[1] Choctawhatchee Electric Cooperative, Inc., West Florida Electric Cooperative Association, Inc., Escambia River Electric Cooperative, Inc.

[1] Commissioner Walker issued a separate, dissenting statement, filed as part of the original document.

[Docket No. CP72-185]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

JANUARY 28, 1972.

Take notice that on January 18, 1972, Michigan Wisconsin Pipe Line Co. (applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72-185, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in the underground natural gas storage service being rendered for Natural Gas Pipeline Company of America (Natural) and the construction and operation of facilities required therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant currently renders underground natural gas storage service to Natural, authorized by Commission order of April 12, 1971, in Docket No. CP71-184, from its Coldwater, Croton, and Winfield storage fields in Michigan at an annual delivery volume of 13,500,000 Mcf for storage and a daily redelivery volume of not to exceed 135,000 Mcf during the period November 1 to the next succeeding March 1 of each year. Applicant seeks authorization to increase the annual storage volume to 18,000,000 Mcf, to increase the daily redelivery rate to 180,000 Mcf, to install an additional 4,000-horsepower compressor unit at its St. John Compressor Station in Indiana in order to transport the increased gas volume to Natural and to uprate a compressor unit at its Hamilton Compressor Station in Michigan from 19,000 to 27,550 horsepower in order to transport the increased gas volume to storage. Applicant estimates the cost of the proposed facilities at $2,761,000 which it plans to finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-1706 Filed 2-4-72;8:45 am]

[Docket No. CP67-349]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Order Setting Date For Formal Hearing, Permitting Interventions, and Prescribing Procedures

JANUARY 27, 1972.

On May 23, 1967, South Texas Natural Gas Gathering Co. (South Texas) filed in Docket No. CP67-349 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale of additional quantities of natural gas to Transcontinental Gas Pipe Line Corp. (Transco). Subsequent to hearings and the issuance of the presiding examiner's initial decision of April 2, 1969, South Texas and Transco filed on May 19, 1969, a joint motion for approval of stipulation and agreement in settlement of the proceeding involving, inter alia, Docket No. CP67-349. The Commission order, issuing conditioned certificates of public convenience and necessity and approving the proposed settlement, issued July 23, 1969, in Docket No. CP67-349, 40 FPC 200, granted South Texas a conditioned certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing the construction and operation of facilities and the sale of natural gas in interstate commerce to Transco.

The order issuing the conditioned certificate approved the terms and provisions of the stipulation and agreement which, inter alia, provided that the total daily contract sales volumes of gas to be delivered to Transco were to be increased to a maximum of 385,000 Mcf and a minimum of 265,000 Mcf, and that the proposed service would be rendered at an initial rate of 19.58 cents per Mcf. However, the order required that after a period of operation consisting of at least 15 months, South Texas should file with the Commission a cost of service statement justifying the settlement rate.

On April 2, 1971, South Texas filed a petition to amend[1] the Commission's order of July 23, 1969, by which South Texas seeks authority to permit the abandonment of certain facilities which were installed pursuant to the Commission's order of July 23, 1969. South Texas has not, as yet, specified the extent of its proposed abandonment of service.

In support of its petition to amend, South Texas avers that the additional volumes of natural gas from the McAllen Ranch Field, Hidalgo County, Tex., upon which it had relied to make the increased sales to Transco authorized, inter alia, in Docket No. CP67-349, et al., are not available and the deliverability from that field will not be increased. South Texas also states that it "has no alternative gas reserves from which it could make the additional deliveries contemplated since it has been unable to purchase additional volumes of gas in the area of its pipeline for resale interstate commerce."

In a letter addressed to South Texas, dated March 19, 1971, Transco stated that it had no objection to South Texas' proposed abandonment. Shortly thereafter, in Docket No. CP71-267, Nueces Industrial Gas Co., Transco, citing a critical gas supply situation on its system, received Commission authorization to engage in an emergency purchase of natural gas from Nueces Industrial Gas Co., an interconnected affiliate of South Texas.

On May 3, 1971, South Texas filed the cost of service statement in Docket No. CP67-349 as required by the Commission's order of July 23, 1969, in this proceeding.[2]

Following these events, the Public Service Commission of the State of New York, on May 4, 1971, requested that a hearing be held on South Texas' proposed abandonment which it filed as a petition to amend on April 2, 1971, in this proceeding. On May 12, 1971, the Philadelphia Gas Works (PGW) also requested that a hearing be held on the proposed abandonment by South Texas.[3] Additionally, on June 25, 1971, PGW requested that the hearing which they request to be held on the issues of South Texas' proposed abandonment also include certain alleged controversial matters regarding South Texas' cost of service filing of May 3, 1971.[4]

In view of the foregoing, we deem it appropriate that a formal hearing be held on the issues raised by the proposed abandonment and the opposing intervenors, including the issues regarding the submitted cost of service of South Texas. Additionally, all factors concerning or affecting the sale to Transco as it was initially proposed and certificated, subsequently amended and certificated, and now proposed to be amended, should be fully explored including, in particular,

[1] See notice of petition to amend, Docket No. CP67-349, issued Apr. 13, 1971.

[2] See notice of cost of service filing, Docket No. CP67-349, issued June 7, 1971.

[3] The Public Service Commission and PGW were participants in the conferences which led up to the stipulation and agreement of May 19, 1969.

[4] The Public Service Commission of the State of New York and the Brooklyn Union Gas Co. concurred with PGW's position in letters dated, respectively, June 28, 1971, and June 30, 1971.

the transportation, exchange, sale, or delivery of natural gas by South Texas or any of its affiliates.

The Commission finds:

(1) It is desirable and in the public interest to permit all parties heretofore permitted to intervene in Docket No. CP67–349 to be deemed intervenors in this proceeding.

(2) It is in the public interest that a formal hearing be held regarding the matters above-described.

The Commission orders:

(A) Pursuant to the authority contained in, and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly sections 4, 5, 7, 14, and 16 thereof, and the Commission's rules and regulations under the Act, a public hearing shall be held commencing Monday, February 28, 1972, at 10 a.m., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning: (1) All matters related to South Texas' petition to amend its certificate to permit abandonment and (2) all rates, charges, or classifications, demanded, observed, charged, or collected by South Texas in connection with any transportation, exchange, sale, or delivery of natural gas to Transco, and (3) any facts, conditions, rules, regulations, practices, contracts, or matters concerning the transportation, exchange, sale, or delivery of natural gas by South Texas or any of its affiliates.

(B) All parties heretofore permitted to intervene in Docket No. CP67–349 are deemed intervenors in this proceeding including the petitioners named herein.

(C) South Texas is ordered to file and serve upon all parties to this proceeding including the Commission and the Commission staff on or before February 11, 1972, (1) evidence supporting its petition to abandon service to Transco filed April 2, 1971, (2) support for the cost of service submitted in this docketed proceeding on May 3, 1971, and (3) evidence regarding the renegotiation of its contract with Transco providing for reductions in the deliveries of volumes heretofore authorized by the Commission and evidentiary support, if so alleged, of a physical inability to comply with the prior authorization accepted by South Texas.

By the Commission.

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

[FR Doc.72–1707 Filed 2–4–72;8:45 am]

[Docket No. RP72–91]

SOUTHERN NATURAL GAS CO.

Suspension of Proposed Increased Pipeline Rates

JANUARY 31, 1972.

Order providing for hearing, rejecting proposed revised tariff sheets, accepting and suspending proposed alternative revised tariff sheets and permitting interventions.

Southern Natural Gas Co. (Southern), on December 16, 1971, tendered for filing revised tariff sheets[1] proposing changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective on February 1, 1972. The proposed tariff changes would be applicable to all of Southern's sales and services under jurisdictional rate schedules and provide for an increase in annual revenues in the approximate amount of $20,584,240 based upon sales for the 12-month period ended August 31, 1971, as adjusted. The increased rates are over and above the rates currently in effect subject to refund and pending proceedings in Docket No. RP72–22.

Southern's filing consists of two alternative sets of revised tariff sheets, the first of which contains two new sections to be included in the general terms and conditions of the tariff, providing for adjustments for changes in gas supply costs and a related provision for flow-through of gas supplier refunds.[2] The alternate set is comprised of identical sheets, with all reference to a purchased gas adjustment provision removed. In addition, Southern's rate filing would amend the Authorized Overrun (AO) rate schedules to provide for a year around rate, rather than winter/summer rates.

Southern requests that if the Commission finds that the proposed purchased gas adjustment provision is prohibited by § 154.38(d)(3) of the Commission's regulations under the Natural Gas Act and does not waive the terms of that section for purposes of this filing, the Commission accept for filing the alternate revised sheets, which do not contain purchased gas adjustment provisions nor the related provisions for refund flowthrough.

The reasonableness of including a purchased gas adjustment provision in the applicant's tariff has not been tested in any evidentiary proceeding. If accepted at this time this provision would become operative after suspension. The purchased gas adjustment provision raises a number of substantive issues which should be fully explored and resolved before the rates and charges are subjected to changes by application of this proposed adjustment provision. Accordingly, we deem it inappropriate at this time to waive the provisions of § 154.38(d)(3) to permit the filing of the revised tariff sheets which contain a purchased gas adjustment provision.

Southern also requests that it be allowed tracking authority for purchased gas cost changes occurring before the date on which the tariff sheets listed in Appendix A hereto may become effective. We will deny Southern's request for such tracking authority. However, Southern will not be precluded from requesting permission to track supplier rate increases which increase the purchased gas cost included in this filing.

Southern states that the increased rates are required solely to permit it to recoup increased costs it is incurring in operating and maintaining its pipeline system. Of the claimed revenue deficiency of approximately $20.6 million, Southern states that $9.9 million reflects the construction and operation of Muldoon Field underground storage project; $7.4 million reflects advance payments to producers for new gas supplies; $1.8 million reflects the claimed increase in allowed rate of return from 8.5 percent (Opinion No. 585, issued August 20, 1970) to 9.25 percent on overall invested capital; and $1.5 million for all other increases which include increases in operation and maintenance expenses and in the costs of supplies, materials, and services.

Southern's rate filing, among other items, also reflects: (i) Operations under a curtailment program pending in Docket No. RP72–74 and the abandonment of certain nonjurisdictional sales, both authorized and pending in certificate proceedings, as a result of which jurisdictional sales would be reduced 5.7 million Mcf and nonjurisdictional sales would be reduced 18 million Mcf below base period volumes; (ii) liberalized depreciation with normalization in computing Federal income taxes; and (iii) increases from its composite depreciation rate of 3.5 percent to 4.5 and 5 percent for transmission and storage investment, respectively.

Review of the rate filing indicates that the issues therein raised required development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

Petitions to intervene were filed by the parties listed in Appendix B hereto.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Southern's FPC gas tariff, as proposed to be amended in Docket No. RP72–91, and that the proposed tariff sheets listed in Appendix A hereto be suspended, and the use thereof be deferred as herein provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedures set forth below.

(3) The participation of the named petitioners in Appendix B hereto may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing with a prehearing conference on June 20, 1972, at 10 a.m., e.d.t.,

[1] The revised tariff sheets (excluding Purchased Gas Adjustment Clause) are listed in Appendix A hereto.

[2] Proposed Original Sheets Nos. 30A, 45A, 45B, 45C, and 45D.

in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Southern's FPC gas tariff, as proposed to be revised herein.

(B) Pending such hearing and decision thereon, Southern's revised tariff sheets listed in Appendix A hereto, are suspended, and the use thereof deferred until July 1, 1972, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Southern's request that it be granted authority to change its rates to track changes in purchased gas costs occurring before the date on which the tariff sheets listed in Appendix A hereto may become effective, is denied, without prejudice to its requests hereafter made for permission to track supplier rate increases which increase the purchased gas cost included in this filing.

(D) Southern's revised tariff sheets containing a purchased gas adjustment provision are hereby rejected for filing. These proposed tariff sheets may be made a part of the record herein, to be considered, along with any modifications thereof or alternative provisions submitted by the parties or the Commission Staff, as a proposed purchased gas adjustment provision to be included in Southern's tariff.

(E) At the prehearing conference on June 20, 1972, Southern's prepared testimony (Statement P), together with its entire rate filing as submitted and served on December 16, 1971, shall be admitted to the record as its complete case-in-chief under the Natural Gas Act, and Order No. 254, 28 FPC 495, subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference fully prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice and procedure, including a useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto.

(F) On or before June 2, 1972, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before June 16, 1972. Any rebuttal evidence by Southern shall be served on or before June 30, 1972. Cross-examination on the evidence filed will commence on July 11, 1972.

(G) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding; shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in section 2.59 of the Commission's rules of practice and procedure.

(H) The petitioners named in Appendix B are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

SOUTHERN NATURAL GAS COMPANY

Alternate Proposed Tariff Sheets (Excludes Purchased Gas Adjustment Clause)

Sixth Revised Volume No. 1

Twelfth Revised Sheet No	8A
Twelfth Revised Sheet No	8D
Sixth Revised Sheet No	8E
Sixteenth Revised Sheet No	9
Eighth Revised Sheet No	11F
Twelfth Revised Sheet No	11H
Eleventh Revised Sheet No	11J
Twelfth Revised Sheet No	15A
Twelfth Revised Sheet No	15D
Sixth Revised Sheet No	15E
Sixteenth Revised Sheet No	16
Twelfth Revised Sheet No	26A
Twelfth Revised Sheet No	26D
Sixth Revised Sheet No	26E
Sixteenth Revised Sheet No	27
Twelfth Revised Sheet No	30

APPENDIX B

SOUTHERN NATURAL GAS COMPANY

Petitions To Intervene

Carolina Pipeline Co.
South Carolina Electric & Gas Co.
Gas Section, Georgia Municipal Association.
The Water, Light & Sinking Fund Commission of the City of Dalton, Ga.
Farmers Chemical Association, Inc.
South Georgia Natural Gas Co.
Atlanta Gas Light Co.
Chattanooga Gas Co.
Florida Gas Transmission Co.
Alabama Gas Corp.
Texas Eastern Transmission Corp.
Georgia Industrial Group.
Administrator of General Services.
Alabama Municipal Distributors Group.

[FR Doc.72-1748 Filed 2-4-72;8:49 am]

[Docket No. CS72-614, etc.]

FRED J. DECKER ET AL.

Notice of Applications for "Small Producer" Certificates [1]

JANUARY 28, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 28, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS72-614	1-17-72	Fred J. Decker, 501 Meadowbrook Lane, Shreveport, LA 71105.
CS72-615	1-14-72	H. W. Marache, Sr., Post Office Box 234, New York, NY 10005.
CS72-616	1-13-72	Manning Gas & Oil Co., Operator, 102 Continental Oil Bldg., Denver, Colo. 80202.
CS72-617	1-18-72	Royal International Petroleum Corp., 700 Oil and Gas Bldg., New Orleans, La. 70112.
CS72-618	1-17-72	C. C. Robinson, 2700 Northside Dr., Bossier City, LA 71010.
CS72-619	1-19-72	Martin G. Miller, 2138 Bank of the Southwest Bldg., Houston, Tex. 77002.
CS72-620	1-19-72	James H. Stone, 3100 Fountain Square Plaza, Cincinnati, OH 45202.
CS72-621	1-19-72	Bixco, Inc., Post Office Box 20864, Phoenix, AZ 85036.
CS72-622	1-20-72	I. N. Hickox, 5002 Grand Central Ave., Vienna, WV 26101.
CS72-623	1-19-72	Robert A. Anderson, Post Office Box 52248, Lafayette, LA 70501.
CS72-624	1-19-72	Crocket Gas Processing Co., 105 Wilkinson-Foster Bldg., Midland, Tex. 79701.
CS72-625	1-20-72	R. R. Robinson, 2415 North Waverly Dr., Bossier City, LA 71010.
CS72-626	1-20-72	Lee Banks, 725 Union Center Bldg., Wichita, Kans. 67202.
CS72-627	1-20-72	Merle Sloan Cawthorn, Post Office Box 671, Mansfield, LA 71052.
CS72-628	1-19-72	Michael P. Grace II, Post Office Box 1418, Carlsbad, NM 88220.

Docket No.	Date filed	Name of applicant
CS72-629	1-19-72	Wilshire Oil Co. of Texas (Operator) et al., 602 National Bank of Tulsa Bldg., Tulsa, Okla. 74103.
CS72-630	1-14-72	Helen Carver, d.b.a. Anthony Oil Co., 131 East Main St., Benton Harbor, MI 49023.
CS72-631	1-21-72	Beulah P. Davidson, 1217 Waller Ave., Bossier City, LA 71010.
CS72-632	1-20-72	Kenneth E. Fletcher, Route 2, Sistersville, W. Va. 26175.
CS72-633	1-20-72	Loyce Phillips, Post Office Box 1251, Kilgore, TX 75662.
CS72-634	1-21-72	Western Oil Producers., Inc., Post Office Box 2055, Roswell, N.M. 88201.
CS72-635	1-21-72	C & E Oil Corp., Box 18602, Oklahoma City, OK 73118.
CS72-636	1-21-72	Aberdeen Petroleum Corp., First National Bldg., Tulsa, Okla. 74103.
CS72-367	1-21-72	Cecil P. Simms, Post Office Box 225, Canyon, TX 79015.
CS72-638	1-24-72	Sharoil, Ltd., 1001 1700 Broadway, Denver, CO 80202.
CS72-639	1-24-72	Sharpet, Inc., 1001 1700 Broadway, Denver, CO 80202.
CS72-640	1-24-72	Dan R. Frantzen, Post Office Box 52382 O. C. S., Lafayette, LA 70501.
CS72-641	1-24-72	Estate of W. A. Delaney, Jr., Box 188, Ada, OK 74820.
CS72-642	1-24-72	Henry H. Windham, d.b.a. Windham Production Co., Post Office Box 146, Panola, TX 75685.

[FR Doc.72-1654 Filed 2-4-72;8:45 am]

[Docket No. RI72-168, etc.]

WESTERN OIL & MINERALS CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

JANUARY 28, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A 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.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. 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.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in in effect subject to refund in docket Nos.
RI72-168	Western Oil & Minerals Corp.	3	6	El Paso Natural Gas Co. (South Blanco Pictured Cliffs Field, San Juan County, N. Mex.) (San Juan Basin).	$40,625	1-3-72		7-9-72	13.0	29.2591	
	do	4	6	do	21,125	1-3-72		7-9-72	13.0	29.2501	
RI72-225	Belco Petroleum Corp.	1	[4] 1-35	El Paso Natural Gas Co. (Big Piney Field, Sublette and Lincoln Counties, Wyo.).	[1] 2,483	1-3-72	1-14-72	[9] Accepted	[1] 18.9309	[1] 21.0004	RI71-225.
	do			do	[2] 82,636	1-3-72	1-14-72	[9] Accepted	[2] 20.1198	[2] 22.2387	RI71-225.
	do			do	[3] 39,211	1-3-72	1-14-72	[9] Accepted	[3] 21.2986	[3] 23.4770	RI71-225.
	do	2	[4] 1-23	do	[1] 2,483	1-3-72	1-14-72	[9] Accepted	[1] 18.9309	[1] 21.0004	RI71-225.
	do			do	[2] 82,636	1-3-72	1-14-72	[9] Accepted	[2] 20.1198	[2] 22.2387	RI71-225.
	do			do	[3] 39,211	1-3-72	1-14-72	[9] Accepted	[3] 21.2986	[3] 23.4770	RI71-225.
	do	3	[4] 1-21	El Paso Natural Gas Co. (Big Piney and Piney (East La Barge) Fields, Sublette and Lincoln Counties, Wyo.).	[1] 23,798	1-3-72	2-2-72	[9] Accepted	[1] 18.9309	[1] 21.0004	RI71-225.
RI62-37	do			do	([2 8])	1-3-72	2-2-72	[9] Accepted	[2] 15.0	[2] 22.2387	RI62-37.
RI72-225	do			do	[3] 207,603	1-3-72	2-2-72	[9] Accepted	[3] 21.2986	[3] 23.4770	RI71-225.
RI70-767	do	13	[7] 1-15	El Paso Natural Gas Co. (Big Piney Field, Sublette and Lincoln Counties, Wyo.).	1,488	1-3-72	[8] 6-8-72	[9] Accepted	18.135	24.086	RI70-767.
RI72-169	Amoco Production Co.	163	[10] 21	El Paso Natural Gas Co. (West Kutz Pictured Cliffs Field, San Juan, N. Mex.) (San Juan Basin).	14,544	1-3-72		3-5-72	13.2501	21.33	RI69-375.
R172-170	Amoco Production Co.	195	[11] 28	El Paso Natural Gas Co. (Pictured Cliffs and Other Fields, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin).	383,866	1-3-72		3-5-73	13.2486	21.33	RI71-621.
	do	370	23	El Paso Natural Gas Co. (South Blanco Pictured Cliffs Field, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin).	250	1-3-72		3-5-72	13.2501	21.33	RI69-374.
	do	199	[12] 20	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin).	91,809	1-3-72		3-5-72	14.2678	21.33	RI71-124.
	do	497	17	do	1,122	1-3-72		3-5-72	14.2678	21.33	RI69-364.
	do	498	22	do	2,119	1-3-72		3-5-72	14.2678	21.33	RI69-364.
	do	499	14	do	13,418	1-3-72		3-5-72	14.2678	21.33	RI69-364.
	do	500	11	do	9,323	1-3-72		3-5-72	14.2678	21.33	RI69-364.
*R172-171	Continental Oil Co.	242	7	El Paso Natural Gas Co. (Allison Unit, San Juan County, N. Mex. (San Juan Basin) and La Plata and Archuleta Counties, Colo.).	1,884	12-30-71		3-1-72	14.00	21.33	RI69-433.
	do	266	3	El Paso Natural Gas Co. (Rincon Unit, Rio Arriba County, N. Mex.) (San Juan Basin).	12	12-30-71		3-1-72	[15] 15.2678	21.33	RI69-433.
	do	267	3	El Paso Natural Gas Co. (Bisti Area, San Juan County, N. Mex.) (San Juan Basin).	2,267	12-30-71		3-1-72	[15] 15.2678	21.33	RI69-433.
	do	268		do	242	12-30-71		3-1-72	[15] 15.2678	21.33	RI71-980.
	do	273	3	El Paso Natural Gas Co. (Blanco Field, San Juan County, N. Mex.) (San Juan Basin).	([17])	12-30-71		3-1-72	[15] 15.2678	21.33	RI69-433.

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in in effect subject to refund in docket Nos'
R172-171	Continental Oil Co.	277	[16] 7	El Paso Natural Gas Co. (Huerfano Unit, San Juan County, N. Mex.) (San Juan Basin).	32	12-30-71		3-1-72	[12] 13.2486	21.33	RI69-433.
					55	12-30-71		3-1-72	[14 15] 15.2678	21.33	RI69-433.
	do	279	3	El Paso Natural Gas Co. (Aztec Pictured Cliffs Field, San Juan County, N. Mex.) (San Juan Basin).	153	12-30-71		3-1-72	13.2486	21.33	RI70-1641.
	do	198	[26] 9	El Paso Natural Gas Co. (Northeast Haynes Area, Rio Arriba County, N. Mex., San Juan Basin).	36,537	12-30-71		3-1-72	[13 19] 15.2678	21.33	RI69-433.
	do	241	6	El Paso Natural Gas Co. (Northeast Farmington Field, San Juan County, N. Mex., San Juan Basin).	46	12-30-71		3-1-72	[21] 13.2486	21.33	RI69-433.
					309	12-30-71		3-1-72	[15 22] 15.2678	21.33	RI69-433.
	do	221	[27] 7	El Paso Natural Gas Co. (Ballard Pictured Cliffs Area, Rio Arriba and Sandoualcos, N. Mex., San Juan Basin).	4,606	12-30-71		3-1-72	13.2486	21.33	RI69-433.
	do	274	6	El Paso Natural Gas Co. (Fulcher-Kutz and West Kutz Fields, San Juan County, N. Mex., San Juan Basin).	43,341	12-30-71		3-1-72	13.2486	21.33	RI69-433.
	do	259	[24] 9	El Paso Natural Gas Co. (Blanco-Pictured Cliffs Field, San Juan and Rio Arriba Counties, N. Mex., San Juan Basin).	2,020	12-30-71		3-1-72	[24] 13.2486	21.33	RI69-433.
	do	295	2	El Paso Natural Gas Co.	35,452	12-30-71		3-1-72	[18] 15.2678	21.33	RI69-433.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Delivery pressure below 250 p.s.i.g.
[2] Delivery pressure above 250 p.s.i.a. but below transmission line pressure.
[3] Delivery pressure sufficient to enter transmission line.
[4] Submitted to correct rates filed June 15, 1971, which were suspended in Docket No. RI72-11 until Jan. 14, 1972.
[5] Submitted to correct rates filed Aug. 2, 1971, which were suspended in Docket No. RI72-56 until Feb. 2, 1972.
[6] No deliveries of gas at present time.
[7] Submitted to correct rate filed Dec. 8, 1971, which was suspended in Docket No. RI72-163 until June 8, 1972.
[8] Effective date given to prior filing suspended in Docket No. RI72-163.
[9] Accepted for filing subject to the existing suspension proceedings to be effective on the dates shown in the "Effective Date" column.
[10] Does not pertain to acreage added by Supplements Nos. 14, 15, 16, and 18.
[11] Does not pertain to acreage added by Supplements Nos. 12, 13, 15, 21, 24, and 26.
[12] Does not pertain to acreage added by Supplements Nos. 9, 11, 12, and 18.
[13] Low pressure gas.
[14] High pressure gas.
[15] Includes 1-cent minimum guarantee for liquids.
[16] Does not pertain to acreage added by Supplement No. 2.
[17] No production at present.
[18] Previously reported as 14.2677 cents per Mcf exclusive of 1-cent minimum liquid guarantee.
[19] Not used.
[20] Not applicable to production from acreage added by Supplement No. 2.
[21] Applicable to Pictured Cliffs gas.
[22] Applicable to Mesa Verde gas.
[23] Not applicable to production from acreage added by Supplement No. 5.
[24] Not applicable to production from acreage added by Supplements Nos. 5, 6, and 8.

Belco Petroleum Corp. has submitted amended rate increases, in substitution for previously suspended increases, so as to collect a double amount of the contractually due reimbursement for taxes applicable to future production as well as back to January 1, 1968. Belco's proposed rate increase under FPC Gas Rate Schedule No. 13 which also reflects a double amount of the contractually due tax reimbursement, is amended to correct a mathematical error. Consistent with Commission action on similar filings, the proposed increases may be substituted for its earlier filings subject to refund in the existing suspension proceedings, effective as of the date of filing, as requested, or the expiration of the suspension period applicable to the earlier filing, whichever is later. After tax reimbursement applicable to past production has been recovered, the rates shall be reduced so as to provide for tax reimbursement for future production only.

The remaining proposed increases are for sales to El Paso in San Juan Basin and 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. is 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, except for Western's increase, do not exceed the corresponding rate filing limitations imposed in Southern Louisiana and the producers have waived their right to file for any increases for 1 year, subject to the two exceptions permitted in the Commission's order issued December 17, 1971, in Amoco Production Co., Docket No. RI72-70. These fittings therefore are suspended for 1 day. Western's filing, however, is suspended for 5 months inasmuch as it exceeds the ceiling.

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).

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR 300 (1972), the Federal Power Commission certifies the abbreviated suspension period in this case as follows:

By Order No. 423 (36 F.R. 3464), § 2.56, in Part 2, Title 18, of the Code of Federal Regulations, issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation, comparable with the instant filing, where the Commission decides to suspend such rate change under section 4(e) of the Act (15 U.S.C. 717c(e)).

[FR Doc.72-1653 Filed 2-4-72;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

FEBRUARY 1, 1972.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period February 3, 1972, through February 12, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-1720 Filed 2-4-72;8:47 am]

[811-2052]

FUND B 701 PARTNERSHIP

Notice of Filing of Application for Order Declaring Company Has Ceased To Be an Investment Company

JANUARY 31, 1972.

Notice is hereby given that Fund B 701 Partnership (Applicant), % Arthur Andersen & Co., 69 West Washington

Street, Chicago, IL 60602, a New York general partnership, registered as a closed-end nondiversified management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant filed with the Commission a notification of registration on Form N–8A on March 25, 1970. Applicant originally proposed to make a public offering of 5,000 general partnership interests and filed with the Commission a registration statement on Form S–4 (File No. 2–36749) under the Securities Act of 1933 for this purpose. Applicant has determined that a public offering is not feasible at this time or within the reasonably foreseeable future. Accordingly, it has requested withdrawal of its registration pursuant to Rule 477 under the Securities Act of 1933. At the present time Applicant has issued no securities and has no assets.

Section 3(c)(1) of the Act states, among other things, that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 22, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule O–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–1721 Filed 2–4–72;8:47 am]

TARIFF COMMISSION

[AA1921–83]

ICE CREAM SANDWICH WAFERS FROM CANADA

Determination of Injury

The Assistant Secretary of the Treasury advised the Tariff Commission on October 26, 1971, that ice cream sandwich wafers from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160 (a)), the Commission on November 8, 1971, instituted Investigation No. AA1921–83 to determine whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on December 14, 1971.[1] Notices of the investigation and hearing were published in the FEDERAL REGISTER of November 12, 1971 (36 F.R. 21715) and December 3, 1971 (36 F.R. 23099).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff.

On the basis of the investigation, the Commission determined by a vote of 4 to 2[2] that an industry in the United States is being injured by reason of the importation of ice cream sandwich wafers from Canada sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATIONS OF CHAIRMAN BEDELL, VICE CHAIRMAN PARKER, AND COMMISSIONERS SUTTON AND MOORE

In our opinion, an industry in the United States is being injured by reason of the importation of ice cream sandwich wafers from Canada which are being sold at less than fair value (LTFV) within the meaning of the Antidumping Act.

Ice cream sandwich wafers are a unique product. They are physically different from other forms of cookies and are used for distinct purposes. They are recognized by the trade as a specialty type product for use in making ice cream sandwiches.

The industry. In making our determination, we have considered the injured industry to consist of those facilities in the United States which engage in the production of ice cream sandwich wafers. Ice Cream Sandwich wafers currently are being produced domestically by two firms at four establishments.

Market penetration and lost sales. The Commission's investigation has revealed that the price advantage afforded the foreign supplier by the sales at LTFV has contributed to significant market penetration by the Canadian producer and lost sales by the domestic industry.

Ice cream sandwich wafers are a major cost item in the production of ice cream sandwiches. To the producers of such sandwiches, a small price advantage (one which might be unimportant for other products) can be decisive in determining who makes a sale. Hence, a price differential of less than 1 cent per pound can have an appreciable effect on sales. One of the principal purchasers of the Canadian product indicated that the LTFV price difference was substantial.

All imported ice cream sandwich wafers have been made by one Canadian firm. Imports first entered in April 1970; in the period April–September 1970, imports were used principally for testing product acceptability; entries were equivalent to less than 1 percent of U.S. consumption in that period. Once the testing period ended, however, the share of the market acquired by the Canadian producer increased to 2.4 percent, in October–December 1970, and to 3.6 percent in the first 10 months of 1971. Data available to the Commission show that all of the imports in the period April 1970–October 1971 were priced at LTFV.

Ice cream sandwich manufacturers using the LTFV wafers had previously used only domestically produced wafers. Thus, the sales of LTFV priced imported wafers, which displaced domestic wafers virtually on a pound-for-pound basis, resulted in significant lost sales for the domestic wafer producers.

The Commission's investigation revealed that the estimated LTFV margin generally accounted for a substantial part of the margin by which the LTFV wafers undersold domestic wafers. During most of the period when the LTFV wafers entered the United States, the margin of underselling exceeded 2 cents per pound, and the margin was possible in large measure because the Canadian wafers were sold at less than fair value. After August 16, 1971, when the United States imposed a 10-percent import surcharge on entries of goods, the Canadian wafers only slightly undersold domestic wafers, but this small price advantage would not have been possible were the Canadian supplier not selling at less than fair value. As a result of adjustments in its home market prices and commission schedules by the Canadian producer, it appears that sales at less than fair value ceased late in 1971. This circumstance, however, should not, in our view, affect our determination that a domestic industry is being injured by the LTFV sales that have occurred. The Canadian producer sold wafers at a considerable LTFV margin, thus pricing his product in the U.S. market materially below the domestic wafers and enabling him to gain a significant share of the market. The antidumping statute is intended to protect against circumstances such as these. Were there no action to levy antidumping duties, the Canadian producer would be free to reinstitute his previous pricing practices.

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[1] A public hearing was originally scheduled for Dec. 7, 1971.

[2] Chairman Bedell, Vice Chairman Parker, and Commissioners Sutton and Moore determined in the affirmative. Commissioners Leonard and Young determined in the negative.

Conclusion. The LTFV price of the imported wafers has permitted the foreign producer to increase penetration of the U.S. market and has resulted in lost sales for the domestic producers. In our opinion, this constitutes injury to the domestic ice cream sandwich wafer industry.

STATEMENT OF REASONS FOR THE NEGATIVE DETERMINATION OF COMMISSIONERS LEONARD AND YOUNG

In our opinion no industry in the United States is being or is likely to be injured, or prevented from being established, by reason of the importation of ice cream sandwich wafers from Canada which the Assistant Secretary of the Treasury has determined to be, or likely to be, sold at less than fair value. The facts before us do not show any such injury. What the facts do show follows.

Market penetration. Penetration of the U.S. market for ice cream sandwich wafers by imports from Canada has been minimal. During the period used by Treasury for fair value comparison, October 1970–December 1970, the U.S. market share of Canadian imports amounted to 2.4 percent. Prior to this period, such market share was insignificant. During the more recent period January–October 1971, the U.S. market share of Canadian imports amounted to only 3.6 percent. There is a significant reason for the attainment of this minimal market share which we detail in the following section.

Total amount of underselling. Except during the 4-month period when the 10-percent import surcharge was in effect, imported wafers consistently and substantially sold for less than their domestically produced counterpart. The amount by which the price of the imported product was less than that of the domestic wafer ranged, for example, from 2 to about 3¾ cents per pound. These prices were in effect at Laurel, Md., the site of the principal importer's plant.

This competitive advantage enjoyed by the imported wafers reflected many factors, both those categorized as resulting from fair as well as from unfair price competition. In other words, the 2- to 3¾-cent price advantage is not composed exclusively of the difference in the price of the Canadian wafers sold for export to the United States and the price charged for their use in Canada by the same manufacturer (referred to as less-than-fair value pricing). Only during the period July 1970 to February 1971 was that part of the competitive price advantage attributed to the less-than-fair value pricing as much as 50 percent of the total price advantage enjoyed by the imported product over the domestic product. Since November 1971 there has not been any less-than-fair value pricing on the part of the Canadian exporter. Moreover, each month since Canadian imports first entered in April 1970 (except for the period when the import surcharge was in effect) the price advantage in favor of imported wafers, excluding the amount of less-than-fair value pricing, amounted to more than six-tenths cent per pound. It has ranged to well over 2 cents per pound, which is the current level.

At a hearing before the Tariff Commission on December 14, 1971, David O. Clark, president of Weston, Ltd.'s three U.S. wafer producing subsidiaries, stated that ice cream sandwich wafers are "a fungible commodity and if our price was a quarter of a cent less than theirs, they would have to meet us and vice versa or they wouldn't get the business; and that is what we are complaining about here." [1]

Clearly, the amount by which the price of Canadian wafers was less than the price of domestic wafers over and above the less-than-fair value pricing was more than sufficient to cause domestic wafer users to buy the imported product. It is clear that the loss of sales by the domestic industry was not by reason of the less-than-fair value export pricing. Or, to put the matter in another way, even had a dumping duty been assessed to offset the less-than-fair value pricing by the Canadian exporter, the resulting competitive situation would have been such that the complained-of-sales would have been consummated.

Price depression or suppression. The impact of Canadian imports on the prices of the two U.S. producers, if indeed there has been any impact at all, has been insignificant. In late April and early May 1970, when imports were just beginning to enter, both U.S. producers raised their truckload prices for wafers of the same size as those being imported from 23 to 24 cents per pound, or 4.3 percent. In late February and early March 1971, after imports had been entering for nearly a year and were still selling at their lowest price, the two U.S. producers again raised their truckload prices, this time by 6.2 percent, from 24 to 25½ cents per pound. Accordingly, no evidence of price depression seems to exist. The rate at which prices increased in 1971 compared with the rate of increase in 1970, 6.2 vs. 4.3 percent, controverts any claim of the existence of price suppression.

Conclusion. In view of:

(a) The minimal penetration of the U.S. market for ice cream sandwich wafers by Canadian imports.

(b) The large size of the total amount by which the imported product undersold the domestic product in comparison with the much smaller extent of less-than-fair value sales,

(c) The effect of a price difference of only one-quarter of a cent on the consummation of sales, and

(d) The absence of price depression and of any evidence of price suppression,

we can only conclude that an industry in the United States is not being injured nor is likely to be injured nor is prevented from being established by reason of the importation of Canadian ice cream sandwich wafers sold in the United States at less than fair value.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-1740 Filed 2-4-72;8:48 am]

U.S. COURT OF CLAIMS

[General Order No. 1]

ALASKA NATIVE CLAIMS SETTLEMENT

Claims for Fees and Expenses

FEBRUARY 2, 1972.

Procedure in claims for fees and expenses pursuant to sec. 20 of the Alaska Native Claims Settlement Act (Public Law No. 92-203, 92d Cong., First Session, Dec. 18, 1971, 84 Stat. 688), before the Chief Commissioner, United States Court of Claims.

1. *Purpose.* The purpose of this order is to establish guidelines and procedures applicable to the filing of claims and answers thereto before the Chief Commissioner, pursuant to the enabling Act cited in the caption. This order may be amended or supplemented and subsequent orders will issue pertaining to procedures beyond the pleading stage.[1] Where rules of the U.S. Court of Claims are cited in any General Order, they are adopted by reference. (Section 20(d) (7) of the enabling Act.) The rules may be obtained from the Clerk or found in title 28, United States Code.

2. *Captions.* The role of the U.S. Court of Claims in these matters is ministerial and only to provide the facilities and personnel for adjudication of these claims without itself being involved in the decision-making process. None of the claims are before the court and none are subject to any judicial review. (Section 20(d) (8) and (10).) Accordingly, all papers of the parties shall be captioned as follows and designated as either (i) for fees and expenses (for attorneys and/or consultants) under section 20 (b), (c), and (d) or (ii) for native association costs under section 20(g):

Before the Chief Commissioner of the U.S. Court of Claims, pursuant to the Alaska Native Claims Settlement Act, section 20, Public Law No. 92-203, 85 Stat. 688.

No. _____

John Doe, or _____ Association of Natives, Claimant.

Attorney (and/or Consultant)[2] Fees and Expenses (section 20 (b), (c), (d)) or Native Association Costs (section 20(g)).

(Filed: _____, 1972)

3. *Attorneys.* Individual parties, including bona fide associations of natives, may present their own claims or may be represented by an attorney duly admitted to practice law before the U.S. Court of Claims or who, with his petition, certifies to the Clerk that he is a member in good standing of the bar of the highest court of the jurisdiction of the United States in which admitted. If a claim for a native association is presented by a nonattorney, such petition shall have attached thereto a power of attorney from the association identifying him as a member thereof and satisfactorily showing that he has authority from the association to prosecute the claim and to accept service on behalf of the association of all papers in connection therewith. Said power of attorney shall be executed by an officer of the association

[1] Transcript, p. 31, underlining ours. David O. Clark is the President of Southern Biscuit Co., Weston Biscuit Co., and American Biscuit Co., all U.S. subsidiaries of Weston, Ltd., a diversified Canadian firm and one of the two U.S. producers of ice cream sandwich wafers. Burry Division of Quaker Oats Co. is the other U.S. producer.

[1] Suggestions of interested parties for the content of future Orders pertaining to procedures, including hearings in these matters before trial commissioners and review panels, provided by section 20, will be appreciated and considered by the Chief Commissioner. This Order, of necessity, issues sua sponte in the absence of knowledge of the identity and number of all interested parties.

[2] Select appropriate heading for petition.

authorized to do so and shall be authenticated by a person authorized to administer oaths and affix his seal thereto.

4. *Pleadings allowed; filing; service*—(a) *Generally.* Every claim shall be commenced by the filing of a petition with the Clerk of the U.S. Court of Claims, 717 Madison Place NW., Washington, DC 20005, and by payment of the filing fee specified by Rule 221. The Clerk will docket and serve the petition as required by section 20(d)(5) of the Act. (Rules 22(a) and 23.) Those served may answer as shown in paragraph 6 of this order. Claims under section 20 (b), (c), and (d) and under section 20(g) of the Act shall not be combined in the same petition, nor shall answers thereto, if any, be so combined. Claims under section 20(g) shall not include any amount for attorney and consultant fees and out-of-pocket expenses. Claims for attorney and consultant fees and out-of-pocket expenses under section 20 (b), (c), and (d) shall not include any costs claimable under section 20(g).

(b) *Signature; oath.* All pleadings and papers shall be signed and sworn to under oath. The manner and effect of signatures will be as further described by Rules 42 and 203.

(c) *Service; time.* Date of service shall be the date of filing with the Clerk. At the time of serving a pleading or other paper, the Clerk shall enter the fact of service on his docket and this record, together with the date stamped on the paper, will be final and conclusive evidence of the date of filing the same and service thereof. Time will be affected as shown by Rule 25 (a) and (d). Claims not filed within the times limited by the Act are forever barred. (From December 18, 1971: 1 year for attorneys and consultants; 6 months for native associations. Section 20 (c) and (g).)

5. *Content of petition.* Each pleading shall be simple, concise, direct, in separate numbered paragraphs (Rule 34 (b) and (c)), and meet, insofar as possible, the following basic minimum requirements:

(a) The name and address of any person or association making claim for services rendered or expenses incurred shall be shown and an explanation shall be given of the capacity of such a person or association to claim, whether as an attorney duly admitted to practice in a given jurisdiction, or as a consultant, or as a bona fide native association.

(b) The name and address of the individual, or entity on whose behalf the services were rendered or expenses were incurred, shall be stated.

(c) There shall be a statement of the time and place where the claim arose, and the items and amounts claimed. Where the claim is based upon a written contract, a certified true copy thereof shall be annexed to the petition.

(d) The claim shall state in detail the nature of the service rendered or expenses incurred and explain the reasonableness thereof, the time and labor required, the need for providing the service or incurring the expenses, whether the same was intended to be, in whole or in part, a voluntary public service or compensable, and the relationship of the service or expenses to the enactment of proposed legislation identified by bill number, title, hearing dates, report numbers, committees, and Congress. (Section 20(d) (2) and (3).)

(3) Any action taken on the claim by Congress or by any department or agency of the United States, or by claimant's client, including reimbursement or compensation made in whole or in part, shall be stated. (Section 20(d)(1).) If the claim is predicated in whole or in part upon services or expenses in connection with an action dismissed before any court or Government agency by this Act, a copy of the order of dismissal shall be attached.

(f) If the claim is based on or supported by any books of account, time, or other records, the petition shall so state and shall be accompanied by a statement (schedule), under oath by the author thereof. This statement shall itemize the basic figures, costs, and rates of the claim and include a computation of the total amount of each item that is based upon or derived from books of account or other records. Each separate portion of the statement shall contain a reference showing the particular books and records and pages thereof from which it was taken. Where the statement includes items based upon allocations of entries, it shall itemize the same for the period involved and shall show the accounting method or principle upon which the allocations were made. The statement shall be accompanied by a declaration that the books and records upon which it is based (including ledgers, journals, payrolls, original invoices, vouchers, checks, notes, and other records and documents needed for a verification of amounts asserted) will be made available for examination on direction of the Chief Commissioner or his designee. The statement shall show the address where such records may be examined or offer to submit them for audit to the Chief Commissioner or his designee in Washington, D.C., and shall further show the name and address of the person who prepared the records and who will be made available for the furnishing of information in connection with the examination. Where books and records supporting a claim are not identified and made available as required herein, the commissioner in his discretion may refuse to receive them in evidence or may prohibit their use otherwise.

(g) Where the claimant is the owner by assignment or other transfer of the claim, in whole or in part, he shall attach to the petition a certified true copy of all instruments of assignment or transfer, and an affidavit setting forth the true consideration paid therefor and stating that the claimant is the bona fide holder and owner thereof and whether or not the claim was purchased for the purpose of instituting a claim in these proceedings. In addition, the information required by this subparagraph shall be included with respect to the claimant's assignor or transferor and any prior assignors or transferors.

(h) The payment to which the pleader deems himself entitled shall be stated.

6. *Defenses*—(a) *Generally.* An answer, contesting any claim filed pursuant to section 20 of the Act, may be filed within 90 days of the date of service of the petition. (Section 20(d)(5) and paragraph 4 of this order.) All answers shall be filed with the Clerk. There shall be separate answers to separate petitions and such answers shall not be combined in the same pleading.

(b) *Form of denials.* An interested party desiring to challenge a claim shall in his answer state in short and plain terms his defenses or objections thereto and shall admit or deny the averments upon which the adverse party relies. Unless the pleader intends in good faith to controvert all the averments of the claim he may make his denials as specific denials of designated averments or paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits. If the pleader is unable to obtain knowledge or information sufficient for him to form a belief as to the truth of an averment, the answer shall so state and such statement shall have the effect of a denial.

(c) *Affirmative defenses.* An answer shall set forth affirmatively the defenses of accord and satisfaction, duress, estoppel, failure of consideration, fraud, illegality, laches, license, payment, release, res judicata, statute of limitations, waiver, mistake, denial of performance or occurrence, and any other matter constituting an avoidance or affirmative defense. (Rule 37(b).)

(d) *Service; signatures.* Answers shall be docketed and served in the same manner as claims presented by petitions and shall be signed as required by Rule 42 and subject to requirements of service and time as provided in paragraph 4 of this order.

7. *Motions*—(a) *Generally.* Every application for an order shall be by written motion filed with the Clerk. The motion shall set forth the relief or order sought and shall state with particularity the grounds therefor. The provisions of this order relating to captions, signing, service, duplication and number of copies shall apply to all motions and related papers filed pertaining to these claims. Any brief, memorandum or affidavit in support of any motion or in support of any objections or response to a motion, shall be included in or attached to each copy of such motion, objections, or response.

(b) *Objections and responses.* Objections or a response to a motion shall be filed within 15 days after service of such a motion: *Provided,* That if a motion states that the adverse party or parties against whom the motion is directed have no objection thereto, it may be acted upon as soon after filing as practicable, without awaiting the expiration of the 15-day period. No reply to an objection or response to a motion shall be allowed except upon order.

(c) *Action on motions.* A motion shall be acted upon by the Chief Commissioner or, if he has assigned a claim to a trial commissioner or review panel, it shall be acted upon by said commissioner or panel, depending upon the stage of the proceedings at the time the motion is filed. The commissioner's ruling on the motion shall be by order filed with the Clerk who shall promptly notify the parties thereof. There shall be no appeal therefrom on matters arising under this order, but the commissioner may entertain a motion for reconsideration.

8. *Duplication; copies.* Duplication may be by clearly legible xerography, multilith, offset, or their equivalent. One hundred (100) copies of each petition, each answer, each motion and each response thereto, as well as all attachments to any paper filed, shall be required. It is not now known how many parties will be involved. If the number of copies here specified proves insufficient for service on all persons appearing to have an interest in a claim (or for use of the Chief Commissioner or his designees), claimants, or interested parties filing papers will be required, on direction, to furnish to the Clerk such additional copies as shall be required.

9. *Sanctions.* Section 20(d)(8) of the Act provides: "Any sanction authorized by the rules of practice of the Court of Claims, except contempt, may be imposed on any claimant, witness, or attorney by the trial commissioner, review panel, or Chief Commissioner."

MARION T. BENNETT,
Chief Commissioner.

[FR Doc.72-1745 Filed 2-4-72;8:49 am]

WATER RESOURCES COUNCIL

PROPOSED PRINCIPLES AND STANDARDS FOR PLANNING WATER AND RELATED LAND RESOURCES

Notice of Additional Hearings

In the FEDERAL REGISTER for December 21, 1971 (36 F.R. 24144), the Council gave notice of a period of public review and comment, commencing as of December 21, 1971, and terminating March 31, 1972, on the Council's proposed Principles and Standards for Planning Water and Related Land Resources, which were published as part of the notice, and which included a draft environmental statement.

Notice was also given that as part of the review, a public hearing would be held at the National Museum of History and Technology, 14th Street and Constitution Avenue NW., Washington, DC, on March 20 and 21, 1972, commencing each day at 10 a.m. (use Constitution Avenue entrance, Conference Room to left after entering).

Reaction to the earlier notice and publication of the Council's proposals has indicated the desirability of holding hearings in addition to the hearing in Washington, D.C. Accordingly, the Council has scheduled two additional public hearings as part of the previously announced period of public review and comment on the Council's proposals.

1. *Time and place.* San Francisco, Calif.:

Hearing Room No. 13450, Federal Office Building, 450 Golden Gate Avenue, March 13, 1972, commencing at 7 p.m. and March 14, 1972, commencing at 10 a.m.

St. Louis, Mo.:

Auditorium, St. Louis Engineers Club, 5359 Lindell Boulevard, March 15, 1972, commencing at 7 p.m. and March 16, 1972, commencing at 10 a.m.

2. *Purpose.* The purpose of this public review and hearing is to obtain, prior to formal Council recommendation for Presidential approval, the views of the interested public on principles and standards proposed by the Water Resources Council, pursuant to the Water Resources Planning Act of 1965 (Public Law 89-80), for Federal participation with river basin commissions, States, and others in the preparation, formulation, evaluation, review, revision, and transmission to the Congress of plans for States, regions, and river basins; and for planning of Federal and certain federally assisted water and land resource programs and projects.

A separate draft environmental statement of the proposed principles and standards has been prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 90-190) and implementing guidelines, and the views of the interested public on it will be considered during the same period of public review and at the public hearing.

3. *Availability of proposal.* The texts of the proposed principles and standards and the draft environmental statement are published in Part II, Volume 36, No. 245 of the FEDERAL REGISTER (36 F.R. 24144). Reprints are available from the Water Resources Council, 2120 L Street NW., Washington, DC 20037.

4. *Written statements.* Written views and comments will be introduced into the record if they are submitted to the Director, Water Resources Council, 2120 L Street NW., Washington, DC 20037, no later than March 31, 1972, or to the hearing officer at the public hearings. All statements should clearly indicate whether they are directed to the proposed principles and standards, to the separate draft environmental statement, or to both.

5. *Oral statements.* Views and comments may be presented at the hearings orally or by submitting a written statement for the record, as set out in paragraph 4 above. Notice of intention to present an oral statement should be provided to the Director, Water Resources Council, 2120 L Street NW., Washington, DC 20037, no later than noon, March 10, 1972, with an advance copy of the statement if available. Such notice, as well as the statement itself, should clearly indicate whether it is directed to the proposed principles and standards, to the separate draft environmental statement, or to both. For the convenience of all those who wish to present views, the Council will attempt to schedule persons speaking on their own behalf during the evening portion of the hearings, and persons speaking on behalf of organizations during the morning and afternoon sessions. The Council will attempt to schedule the presentation of those persons who fail to observe the March 10, 1972, deadline as time permits. If necessary to accommodate all those wishing to present oral statements, the hearing officer may limit such statements to 30 minutes. Any person so limited may submit a written extension of his remarks for incorporation into the record, provided he does so within the deadline set out in paragraph 4 above.

6. *Availability of record.* The record of views and comments received during the public review period, including a transcript of the hearings, will be maintained for public inspection at the headquarters of the Water Resources Council, 2120 L Street NW., Washington, DC 20037. Copies of the record, or portions thereof, will be furnished by the Council to any member of the public upon payment of the cost of reproducing the copies desired.

7. *Background of proposal.* These proposed principles and standards are based on over 2 years of intensive effort by the Water Resources Council.

The Council appointed a special task force to review evaluation practices currently used in planning. An initial public hearing was held in January 1969 to solicit public views. A preliminary report of the special task force proposing a multiobjective approach to planning water and land resources was published by the Council in June 1969. The Council directed that the issues and the proposals in the report be widely discussed and tested on existing projects.

Nine public hearings were held at which about 200 oral statements were presented and nearly 400 other statements were submitted for the record. The preliminary task force report, of which about 5,000 copies have been distributed, has been the subject of discussion at numerous meetings and seminars. The report has been extensively reviewed by several Federal agencies and river basins commissions. In addition, 19 field tests have been made of the proposed procedures based on the preliminary task force report. On the basis of this information and suggestions of numerous experts from Federal and State Governments, universities, and other sources the task force submitted its final recommendations to the Water Resources Council in August 1970.

After careful consideration, the Council has made certain revisions in the task force recommendations and has tentatively adopted the revised principles and standards, subject to public review and comment and Presidential approval.

8. *Effect.* The principles and standards, when approved, will supersede the Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development

of Water and Related Land Resources, approved by the President, May 15, 1962, printed as Senate Document No. 97, 87th Congress, second session, together with Supplement No. 1 thereto, June 4, 1964, "Evaluation Standards for Primary Outdoor Recreation Benefits," and the amendment of December 24, 1968, 18 CFR 704.39, *Discount rate.*

W. DON MAUGHAN,
Director,
Water Resources Council.

[FR Doc.72-1739 Filed 2-4-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

FEBRUARY 2, 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 117465 Sub 17, Beaver Express Service, Inc., doing business as Beaver Express, now assigned February 7, 1972, at Amarillo, Tex., postponed indefinitely.

MC 51146 Sub 223, Schneider Transport & Storage, Inc., now assigned February 3, 1972, at Washington, D.C., is canceled and application dismissed.

MC-FC-72239, Denny Truck Lines, Transferee and Stevens Truck Lines, Internal Revenue Service Successor-in-Interest, Transferor, MC-F-11167, H. C. Gabler—Purchase (Portion)—Stevens Truck Lines (Internal Revenue Service, Successor-in-Interest), MC-F-11197, Rogers Transfer, Inc., MC-F-11199, Mercury Motor Express, MC-F-11230, Bowen Trucking, MC-F-11231, Davis & Randall, MC-F-11266, Redwing Refrigerated, MC 135454 Sub 3, Denny Truck Lines, now being assigned hearing April 4, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC-F-11305, Terminal Transport Co., Inc.—Purchase (Portion)—Deaton, Inc., assigned February 28, 1972, at Birmingham, Ala., postponed indefinitely.

W-1255, Potomac Boat Tours, Inc., now assigned February 7, 1972, at Washington, D.C., canceled and application dismissed.

MC 113678 Sub 423, Curtis, Inc., now assigned February 11, 1972, at Chicago, Ill., canceled and application dismissed.

MC-F-11252 (FD 26969 DR) IML Freight, INC.—Purchase (Portion)—Michigan Express, Inc., assigned February 14, 1972, at Chicago, Ill., is postponed indefinitely.

MC 61592 Sub 222, Jenkins Truck Line, heard January 24, through January 25, 1972, at Memphis, Tenn., has been continued to March 21, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 115841 Sub 410, Colonial Refrigerated Transportation, heard January 26, 1972, at Memphis, Tenn., has been continued to March 22, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC-F-11169, International Cartage, Inc.—Purchase (Portion)—Mohawk Motor, Inc., heard January 25, through January 26, 1972, at Chicago, Ill., has been continued to February 22, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC-F-11218, Home Transportation Co., Inc. — Purchase (Portion) — Machinery Transports, Inc., now assigned February 28, 1972, at Chicago, Ill., postponed indefinitely.

MC-C-7407, The Aetna Freight Lines, Inc., and Victory Freight Lines, Inc.—Investigation and Revocation of Certificates, now assigned February 22, 1972, at Birmingham, Ala., is postponed indefinitely.

MC 128273 Sub 45, Midwestern Express, Inc., application dismissed.

MC 1367 Sub 5, Owl Transfer & Storage, now assigned February 14, 1972, at Seattle, Wash., postponed to March 20, 1972, at Seattle, Wash., in a hearing room to be designated later.

MC 29910 Sub 101, Arkansas-Best Freight System, Inc., assigned February 22, 1972, at New Orleans, La., canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-1764 Filed 2-4-72;8:49 am]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 2, 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. 42345—*Aniline oil from Pascagoula, Miss.* Filed by M. B. Hart, Jr., agent (No. A6296), for interested rail carriers. Rates on oil, aniline, in tank carloads, as described in the application, from Pascagoula, Miss., to East St. Louis, Ill.

Grounds for relief—Market competition.

Tariff—Supplement 166 to Southern Freight Association, agent, tariff ICC S-800. Rates are published to become effective on March 9, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-1763 Filed 2-4-72;8:49 am]

[Notice 11]

MOTOR CARRIER TRANSFER PROCEEDINGS

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-35443. By order of January 27, 1972, the Motor Carrier Board approved the lease by J & P Properties, Inc., Miami, Fla., of the certificates in the No. MC-118282 series and the permit in No. MC-125811 issued to Transystems, Inc., Miami, Fla., the said common carrier operating rights authorizing the transportation of such commodities as are dealt in or used by nurseries, between points in Florida, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and numerous specified commodities, including frozen fruits, frozen bakery goods, frozen vegetables, fruit products and fruit byproducts (not frozen), canned goods, building materials, and new furniture, to and from named points in the United States generally east of the Mississippi River, and the said contract carrier operating rights authorizing the transportation of sheet and plate plastic material, from Wisconsin Rapids, Wis., to Miami and Tampa, Fla., and from Lowell, Mass., to Atlanta, Ga., Miami and Tampa, Fla., and New Orleans, La., and liquid adhesive and glue, from Buffalo, N.Y., to Atlanta, Ga., and Miami and Tampa, Fla. Dual operations were approved. Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326, attorney for applicants.

No. MC-FC-73311. By order of January 28, 1972, the Motor Carrier Board approved the transfer to E. W. Peery, doing business as Peery Trucking Co., Dyersburg, Tenn., of the operating rights set forth in permits No. MC-123347, MC-123347 (Sub-No. 2), and MC-123347 (Sub-No. 3), issued September 10, 1964, June 6, 1966, and October 3, 1967, to Ajax Transfer Co., Inc., Memphis, Tenn., authorizing the transportation of corrugated metal pipe, and fittings, accessories and attachments thereof, and septic tanks, from the plantsite of Armco Steel Corp., Memphis, Tenn., to points in Arkansas and Mississippi; steel pipe, steel retaining walls, and pipe-piling corrugated steel, steel sheeting, guard rails, and fittings, parts, and attachments used in connection with the fabrication and installation of such items, from Middletown, Ohio, to Memphis, Tenn., and points in Arkansas and Mississippi; from Memphis, Tenn., to points in Arkansas, Mississippi, Kentucky, Illinois, and Missouri; steel pipe and fittings, from Topeka, Kans., to Memphis, Tenn.; steel pipe, steel retaining walls, and pipe-piling corrugated steel, steel sheeting, guard rails, and fittings, parts, and attachments used in connection with the fabrication and installation of such items, from the

plantsites of Armco Steel Corp. at Middletown, Ohio, and Memphis, Tenn., to points in Oklahoma, Texas, Louisiana, Alabama, and Georgia; and steel pipe and fittings, from the plantsite of Armco Steel Corp. at Topeka, Kans., to points in Arkansas, Mississippi, Missouri, Illinois, Kentucky, Oklahoma, Texas, Louisiana, Alabama, and Georgia. R. Connor Wiggins, Jr., 100 North Main Building, Memphis, Tenn. 38103, attorney for applicants.

No. MC-FC-73414. By order of January 31, 1972, the Motor Carrier Board approved the transfer to Marshall Motor Coach, Inc., Marshalltown, Iowa, of the operating rights in certificate No. MC-119961 (Sub-No. 2) issued February 19, 1963, to Chester Hodgdon, doing business as Marshall Motor Coach, Marshalltown, Iowa, authorizing the transportation of passengers, and their baggage, in round-trip charter operations, beginning and ending at points in Poweshiek, Marion, Tuna, and Jasper Counties, Iowa, and extending to points in Missouri, Illinois, Wisconsin, Minnesota, South Dakota, Nebraska, and Colorado. Rex J. Ryden, 112 West Church Street, Marshalltown, IA 50158, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-1762 Filed 2-4-72;8:49 am]

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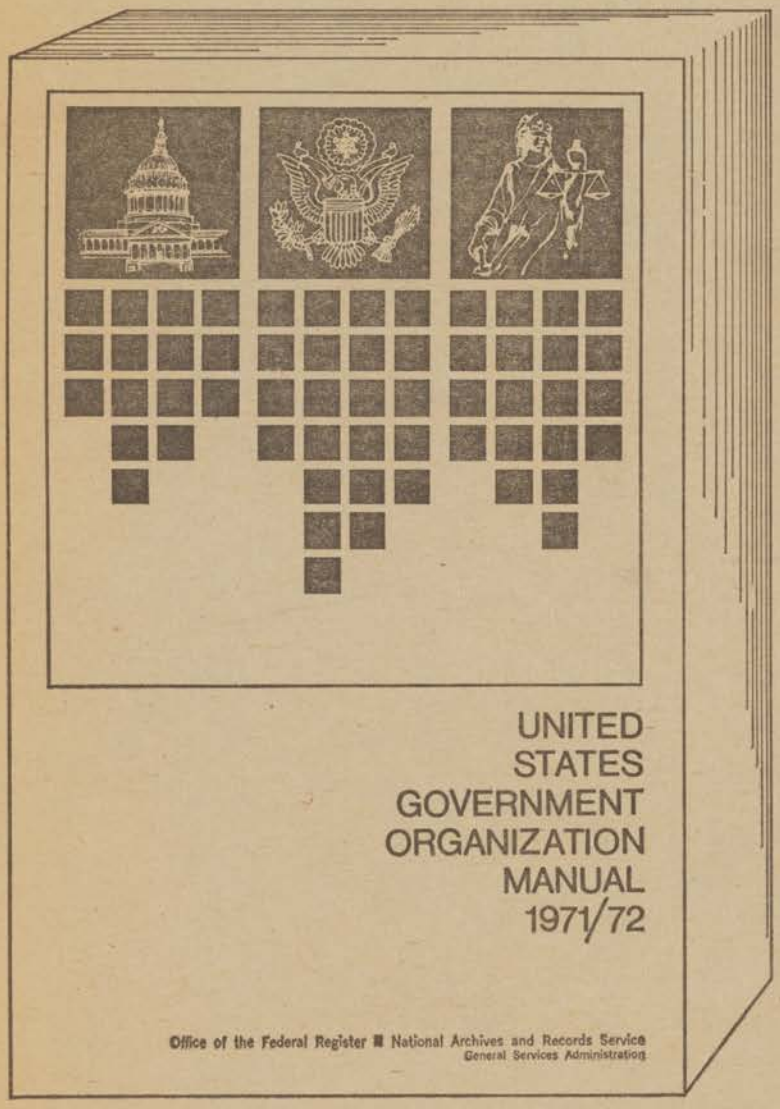

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