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(Continued inside)

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Contents

(Continued on next page)

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 4—ACCOUNTS

Chapter III—Cost Accounting Standards Board

COST ACCOUNTING STANDARDS, RULES, AND REGULATIONS

General comments. The purpose of the regulations promulgated today by the Cost Accounting Standards Board is to implement section 719 of the Defense Production Act of 1950, as amended, 50 U.S.C. app. 2168, which provides for development of Cost Accounting Standards to be used in connection with negotiated national defense contracts and for disclosure of cost accounting practices to be used in such contracts. The Board believes the materials being promulgated today constitute a significant initial step toward accomplishing one of its major objectives—improved cost accounting and the proper determination of the cost of negotiated defense contracts. The regulations spell out contract coverage (Part 331), disclosure requirements (Part 351), a compilation of Definitions (Part 400), and two Cost Accounting Standards, one calling for consistency in estimating, accumulating, and reporting costs (Part 401), and the other calling for consistency in allocating costs incurred for the same purpose (Part 402).

Development of the material being promulgated today began many months ago with extensive research. It included examining publications on the subject, conferring with knowledgeable representatives of various Government agencies, Government contractors, industry associations, and professional accounting associations, and identifying and considering all available viewpoints. From this research, the initial versions of the material now being published were developed. As a part of the continuing research effort, these initial drafts were sent to 81 agencies, associations, and Government contractors which had expressed interest in assisting the Board in its work, and their comments were solicited. Some national defense contractors field-tested the material to see how it would apply to and affect their operations and advised the Board of their findings. In each step of the research process, the Board and its staff have urged and received active participation and assistance by Government, industry, and accounting organizations. Their cooperative efforts contributed in large measure to the exposure draft published in the December 30, 1971, FEDERAL REGISTER for comment.

To better assure that all who might want to comment had an opportunity to do so, the Board supplemented the FEDERAL REGISTER notice by sending copies of the FEDERAL REGISTER materials directly to about 175 organizations and individuals who had expressed interest or had provided assistance in the development of the published material. Also, a press release was distributed announcing the publication, which resulted in numerous articles in journals. The Board availed itself of all opportunities to publicize the proposals and solicit comments on them.

Written comments in response to the published material were requested by February 4, 1972. Comments were received from 105 sources, including Government agencies, professional associations, industry associations, public accounting firms, individual companies, and others. The Board appreciates the obvious care and attention devoted by commentators, and as will be seen below, the Board has greatly benefited from the comments received.

Many of the comments received were addressed to all parts of the proposed Board rules as well as to the question of public availability of the Disclosure Statements. All of the comments received have been carefully considered by the Board taking into account the requirements of section 719. Understandably, many of the comments were addressed to issues which recur in two or more of the proposed parts while others dealt only with specific sections. Comments which dealt with 11 general issues are discussed separately below followed by a section-by-section analysis of other comments. Appropriate changes have been made in the material promulgated based on the Board's disposition of the comments received.

Those comments and suggestions received which are of particular significance are discussed below.

1. *Public availability of disclosure statement.* In a special notice in the notice of proposed rule making, the Board sought comments to assist it in its determination of whether Disclosure Statements submitted by defense contractors and subcontractors should be available to the general public, pursuant to the Public Information Section of the Administrative Procedure Act (5 U.S.C. 552) or whether such information was properly within one of the statutory exceptions to the legal requirement for public availability.

With few exceptions, both Government and industry commentators urged that the Disclosure Statements not be made available to the general public. Numerous arguments were presented. Among them were that public disclosure by a Government official would violate 18 U.S.C. 1905 (a provision in the Criminal Code making it a crime for a Government official to make certain matters public in certain circumstances), thus making disclosure improper under an exception to the requirement for public availability set out in 5 U.S.C. 552(b)(3); that the cost accounting practices were trade secrets or property of considerable value and that disclosure would deprive the company of their value without compensation; that disclosure would reduce competition; and that the public might be misled in that it might construe disclosures respecting the defense segment of a contractor's business as representative of his entire business organization.

An argument in favor of making the Disclosure Statements available to the public was made by a public interest group. It argued that 5 U.S.C. 552 clearly applies to Disclosure Statements, which do not fall within any exception to public availability; that the public requires access to Disclosure Statements in order to consider adequately and comment intelligently on any Cost Accounting Standards proposed by the Board; that public availability would enhance competition; that Disclosure Statements which are ultimately approved will form a body of precedents to guide others in complying with future Board Standards and that public availability will enable citizens and the Congress to hold both the Board and contracting officials accountable for implementation of section 719. A few commentators stated that they favored, or could see no harm to companies from, public availability of contractors' disclosed practices.

The Board is especially impressed with arguments that cost accounting practices have never been made public, that companies have regarded and treated them as confidential, and that a company's competitive position would be damaged by public disclosure of its cost accounting practices. Since disclosure will be required of many companies or divisions of companies whose principal competitors are not subject to Board regulations, the Board recognizes there might arise competitive disadvantage to the disclosing company or division if its competitors may see its disclosure but need make none themselves. The Board has, in light of these latter arguments, concluded that information received in response to Disclosure Statements is within the exception set forth at 5 U.S.C. 552(b)(4) and that the Board will not make Disclosure Statements public in any case when the company or segment files its statement specifically conditioned on the Government's agreement to treat the Disclosure Statement as confidential information.

A provision to this effect has been added at § 351.4(d) of Part 351. Additionally, paragraph (a)(1) of the contract clause set forth at § 331.5 has been modified to this effect, and a provision added to it so that subcontractors may submit Disclosure Statements directly to the contracting officer.

While the Board has concluded that public availability of the Disclosure Statements of identified contractors is not required, it will, nevertheless, implement its announced intention of compiling statistical summaries of disclosure

data and making those studies available to the public. The Board believes that the creation of a data bank of cost accounting practices will greatly benefit the Board's own research efforts and the formulation of Cost Accounting Standards; summaries of these data or studies of them should also prove to be of great value to the public. Aggregated information not identified to particular contractors will, therefore, be made available to the public.

2. *Contractor-subcontractor relationships.* Several commentators, stating that contractors cannot dictate the cost accounting practices of their subcontractors at any tier, urged that the Board not hold contractors responsible for increased costs to the United States arising from the failure of subcontractors to follow Cost Accounting Standards or disclosed cost accounting practices. Several commentators also urged that the contractor not be subject to the possibility of a default termination by reason of the actions or inactions of any of its subcontractors at any tier. Finally, some commentators urged that the Board establish a novel concept of privity between the contracting agency and subcontractors with respect to any concerns stemming from Board rules, regulations, and Cost Accounting Standards.

The Board has dealt with many of the issues touched on by these commentators in its conclusions, discussed below, respecting the phasing of applicability and the proposed termination-for-default language in the Contract Clause. The Board is also mindful of the desirability of its maintaining neutrality with respect to contracting policies outside its jurisdiction; thus it should avoid establishing a standard or policy which would influence decisions of whether work should be performed in-house or subcontracted. A Board policy permitting contractors to avoid responsibility for the actions of their subcontractors could surely have such an impact.

The Board reaffirms the established principle that prime contractors are responsible to the Government for performance of their contracts in all required respects and urges that contractors who are fearful of deficiencies in their subcontractors' performances protect themselves by use of whatever means they currently employ under other flowdown contractual requirements.

3. *Exemptions.* Many commentators urged the Board to provide exemptions either to the requirement to file a Disclosure Statement or to both that requirement and the requirement to follow Cost Accounting Standards. Exemptions were urged for subcontractors below the first tier, subcontractors with small amounts of defense contracting business, producers of basic or raw materials, colleges and universities, construction contractors, firms which would qualify as small businesses, and others.

The Board has long been concerned with the question of appropriate exemptions. It has specifically requested interested groups to offer suggestions for criteria for use by the Board in considering exemptions. It also requested its staff to study exemptions and has discussed the staff investigations at Board meetings. In light of these studies and the comments received, the Board has found no persuasive reasons for issuing blanket or class exemptions at this time.

The Board recognizes, however, that individual Cost Accounting Standards may by their nature be inapplicable or inappropriate to certain classes or categories of defense contractors or contracts. The Board will continue to consider exemptions from individual proposed Cost Accounting Standards as appropriate.

With respect to the requirement to submit a Disclosure Statement, the Board's proposed regulation provides a phasing of that requirement. The Board remains convinced that a company which together with its subsidiaries received prime contract awards of negotiated national defense contracts including supplemental awards during Federal fiscal year 1971 totaling more than $30 million should be required to submit a Disclosure Statement as soon as Part 351 of the Board's regulations becomes effective. In order to provide both to other contractors and to Government agencies adequate time within which to study the use of Disclosure Statements, however, the Board will defer determination of the date after which other affected contractors and subcontractors may be required to file Disclosure Statements. From time to time, the Board will announce the dates of applicability to other contractors and subcontractors.

4. *Applicability date of standards, rules, and regulations.* A related issue raised by many commentators is a request that Cost Accounting Standards be made applicable 90 days after issuance or at the beginning of the contractor's next fiscal year, whichever is later. In order to provide the maximum benefits from use of Cost Accounting Standards, the Board has decided not to adopt any rule which would automatically delay the effective date of Cost Accounting Standards beyond the dates contemplated in section 719(h). That section provides a minimum of 4 months' notice from the date of promulgation, to contractors of the likely applicability of a Cost Accounting Standard. The Board regards this as an adequate time for companies to prepare for use of the standard. The Board nevertheless recognizes that certain standards by their nature may require deferring applicability to the beginning of a contractor's fiscal year next following the effective date, and in such cases that applicability will be stated in the standards concerned.

5. *Agency administrative responsibility.* Many commentators, noting the Board's statutory responsibility to promote uniformity and consistency in cost accounting practices used in defense contracting and subcontracting, have suggested that uniformity would be promoted by giving the Board or another single Federal agency the sole implementing responsibility respecting Board regulations. Thus, some commentators recommended that the Board itself issue regulations prescribing the frequency of submission of Disclosure Statements and where they must be submitted. Other commentators urged that the Board issue a single regulation prescribing exact methods by which increased costs to the United States will be determined. Other commentators urged that the Board prescribe methods by which advance agreements affecting more than one contract shall be made, some commentators urging that the Board itself make those agreements. Others urged that the Board rule that the contracting agencies must act to approve or disapprove Disclosure Statements within a stated period of time. And finally, some commentators urged that the Board itself be the sole agency to approve the cost accounting practices disclosed through submission of a Disclosure Statement.

The Board finds these recommendations cogent. It also recognizes that to act pursuant to them would require a Board regulation directed to the administrative and contracting procedures of many Federal agencies and in some cases—such as the recommendation for Board approval of disclosed cost accounting practices—substitute a Board regulation for the exercise of contracting officers' discretion.

The Board, therefore, has decided not to implement at this time the suggestions set forth in this connection. The Board nevertheless will watch closely during the early implementation by contracting agencies of Board rules, regulations, and Cost Accounting Standards so that it may become aware of any diversity of regulations or actions by contracting agencies. If the Board finds that an unacceptable amount of diversity has arisen, it will be prepared to reconsider the recommendations that the Board issue its own regulations in many of the areas left by Board regulations to the discretion of contracting agencies.

Many commentators have expressed concern about the problems which could arise from inconsistent actions by different Federal agencies respecting disclosed practices, changes in practices, and equitable adjustment of contract prices and costs. The Board has directed its staff to work with representatives of relevant Federal agencies with the objective of obtaining designation of a single contracting officer for each contractor or major component thereof in order to achieve consistent practices within the standards issued by the Board.

6. *Contract modifications.* Several commentators have urged that negotiated contract changes and amendments over $100,000 to contracts which are themselves not subject to Board jurisdiction should not be covered. One commentator pointed out that in a long-term contract, most changes represent "instead of" type changes with cost of price adjustments only for the incremental effect of the change. This commentator stated that there is no practical way separately to identify these incremental costs.

The Board is persuaded that for the time being it should not cover negotiated modifications to contracts exempt at their inception. It has, therefore, eliminated coverage for the time being of such contract modifications. In doing so, however, the Board intends that the annual extension of existing negotiated contracts and similar contract modifications would not be exempt from the Board's rules, regulations, and Cost Accounting Standards.

7. *Definitions.* The Board is also persuaded of the value of one commentator's suggestion that the Board provide a compilation of definitions of the words or phrases defined in individual Cost Accounting Standards, making those definitions applicable to all such standards. Consequently, a new Part 400 has been added, and all terms defined in Parts 401 and 402 have been placed in it, although they also remain in the particular standards in which they are defined. As more standards are added, any terms defined in them will also be added to Part 400. However, terms defined in Parts 331 and 351 are not included in the glossary of definitions, nor are terms used in those parts necessarily to bear the meanings ascribed to those terms in Part 400.

8. *Application to individual contracts.* Several commentators urged that the Board adopt the date of final agreement on a negotiated price as a cut-off date for the disclosure of cost accounting practices. The Board has reviewed the merits of selecting that date rather than the date of award to establish the date as of which the contractor's Disclosure Statement must accurately reflect his cost accounting practices, at least with respect to those contracts where cost or pricing data have been submitted pursuant to Public Law 87-653. The Board has decided to use the date of final agreement on price, as shown on the signed certificate of current cost or pricing data, with respect to contractors who have submitted cost or pricing data, and to use the date of award of the contract for all other contractors. In addition, the Board has concluded that it is appropriate to use those dates to establish which Cost Accounting Standards shall be applicable to the proposal and to the contract at its inception. Appropriate changes in Parts 331, 351, and 401 have been made to reflect this decision.

9. *Price adjustments.* Many commentators stated that where a contractor's departure from existing disclosed practices is occasioned by the contractor's wish to adopt a newly issued Cost Accounting Standard for all contracts, the Government should be willing to provide upward price adjustment whenever an existing contract is rendered thereby more expensive to perform. The view was often expressed that contractors could not maintain one accounting practice for contracts subject to a particular Cost Accounting Standard, but a different practice for contracts not so subject; therefore, it was alleged, once a contractor had to adopt a standard for any one contract, he would of necessity adopt it for all contracts and amend his Disclosure Statement accordingly.

The Board notes in this connection that the Cost Accounting Standard at Part 402 requires consistency in the allocation of all direct and indirect costs under all covered contracts. If a Cost Accounting Standard were issued which required a company to modify its disclosed cost accounting practices with respect to its earlier practice of allocating direct and indirect costs, Part 402 would require amendment of existing disclosed practices so as to meet that requirement. In such a case, the Board believes it would be unfair to deny an equitable price adjustment arising from such amendment.

Further, the Board has been persuaded by the strong arguments from industry commentators that companies with more than one contract, subject to different Cost Accounting Standards, cannot maintain multiple records to account for each contract related to its set of standards. Another industry commentator stated that the vast majority of companies must apply any required cost accounting practices across their total business, and that it would be impractical if not impossible for companies to apply different practices to different contracts. The Board has accommodated this view by enabling contractors to apply uniform practices to all covered contracts. Such application will also serve to improve cost accounting practices for all contracts.

The Board has consequently modified both Part 331 and Part 351 to provide three things: First, that a contractor's practices disclosed for any contract shall be the same as the practices currently disclosed and applied on all other covered contracts and subcontracts being performed by that contractor. Second, that a contractor must amend his disclosure of cost accounting practices as new standards are issued and become applicable to new contracts if a change in practices is necessary, so that, at any given time, the same practices prevail under all of the contractor's existing contracts and subcontracts subject to Board jurisdiction. Similarly, contractors must amend Disclosure Statements to reflect any change in practices disclosed under later contracts. Third, that for those amendments of disclosed practices applicable to a particular contract which are occasioned by the issuance of a new Cost Accounting Standard, the Government will equitably adjust the contract price in accordance with the changes clause in the contract or reimburse any increased costs under that contract.

In view of the phasing of the requirement to file a Disclosure Statement, the Board has adopted a contract provision that will provide equitable adjustments in appropriate cases when a contractor who has not yet filed a Disclosure Statement is required to change his established cost accounting practices to comply with newly issued Cost Accounting Standards. On the other hand, any departure from disclosed cost accounting practices which is not required by a newly issued Cost Accounting Standard will not be subject to equitable price adjustment, but only to price adjustment downward in the event that that departure would otherwise result in increased costs being paid by the United States. The Board wishes to emphasize that if the parties to a contractual negotiation mutually agree to a price based on exclusion of costs which are allocable under the contractor's disclosed cost accounting practices, such agreement shall not affect the requirement for conformity with Board rules, regulations, and Cost Accounting Standards in the contractor's allocation of costs between the contract being negotiated and other work.

10. *Materiality.* The Board notes that many commentators urged that a concept of materiality be incorporated in the Board's regulations, to the end that minimal or insignificant modifications of or failures to use disclosed cost accounting practices would not be subject to price adjustment.

The Board agrees that the administration of its rules, regulations, and Cost Accounting Standards should be reasonable and not seek to deal with insignificant amounts of cost. Since this rule of common sense is already practiced by the Government, the Board does not believe that there is any need to attempt to formulate and state in acceptable concept of materiality applicable to all Board rules, regulations, and standards, although the Board might consider doing so if subsequent events indicate the necessity therefor. The Board does recognize that in particular standards a "materiality" statement may be useful, and in such cases, it will include one. See for example the addition at § 402.50(e).

11. *Additional requirements by agencies.* As a final general point, concern was expressed that Federal agencies might require submission of cost proposals in ways inconsistent with the cost accounting practices of some or all of the potential offerors. The Board recognizes that this has happened in the past, but it notes that Board rules, regulations, and Cost Accounting Standards are to be used by relevant Federal agencies as well as by contractors and subcontractors, and it believes that henceforth requests for proposals must be fully consistent with such rules, regulations, and standards, although of course the Federal agency may ask for supplementary information to accompany proposals if this is needed to meet the agency's requirements.

Other Comments

Section 331.2 Definitions. A few commentators recommended modifying the definition of "relevant Federal agency." Their purpose was to assure that agencies such as the General Accounting Office and the Renegotiation Board were excluded from the definition of such agencies. Those recommendations have not been accepted, since the Board believes the General Accounting Office, the Renegotiation Board, and other agencies whose responsibilities include review, approval, or other action affecting national

defense procurements are within the meaning of "relevant Federal agencies."

One Federal agency urged that the definition of "national defense" be supplemented at the end by adding the phrase "including R. & D. and services." The Board believes this addition unnecessary, in light of the definition at § 331.2 (b) of "defense contractor," and the definition of "material" set out in 50 U.S.C. App. 2152 as including "technical information." The Board, of course, agrees that contractors for research and development as well as other services are national defense contractors in light of these definitions.

Several commentators urged that the definition of "negotiated subcontract" at § 331.2(f) be broadened to reflect what the commentators believed was the Board's purpose in this definition, that of precluding jurisdiction over subcontracts made after adequate price competition. That is not the Board's intention; instead, the Board intended to exclude from the term "negotiated subcontract" only a subcontract made under conditions which are as close to the conditions governing Federal advertised contracts as possible. Accordingly, the Board has not accepted these suggestions, but it has added language to clarify its intention.

In connection with this comment, the Board notes that several commentators urged that the Board exempt altogether from its jurisdiction any contract made after adequate price competition. The Board believes that any such exemption would be unwarranted and undesirable in view of the legislative history of section 719.

Section 331.5 Contract clause. The major changes in the contract clause urged by commentators have already been discussed in points 2 and 9 of the discussion of general comments. Commentators raised a number of additional points with respect to this contract clause. A great many commentators objected to the provision in paragraph (e) for termination for default. Many commentators urged that the requirement to repay increased costs to the United States should be deemed the sole remedy for a refusal or failure to comply with the requirements of the contract clause. While that remedy may be adequate for almost all cases involving a failure to follow Cost Accounting Standards or disclosed cost accounting practices, it would not be adequate to meet other possible situations, where, for example, a contractor refused to make a post-award submission of a Disclosure Statement or refused to grant access to records as required by the contract clause. In view of the fact that breach of any of the requirements of this clause would be a breach of a material condition of the contract, the default clause generally applicable to performance of the contract provides adequate coverage. Consequently, the Board has deleted the specific termination language in this contract clause as requested by many commentators.

Some commentators urged deletion or modification of paragraph (c) of the contract clause, which the Board has not done, since that language is prescribed by section 719(j). Other commentators urged that the Board set forth a specific period during which contractor and subcontractor documents, papers, or records relating to compliance with Cost Accounting Standards must be retained. The Board believes that there is no need to do so, since the general records retention requirements of any particular contract will establish that period.

One Federal agency requested that the disputes language in paragraph (d) be modified to accommodate that agency's practice of permitting subcontractors to bring contract disputes directly to that agency's Board of Contract Appeals. The Board has accepted this recommendation. Two Federal agencies recommended deletion of the definitions in this contract clause as unnecessarily duplicating § 331.2. The Board agrees and has made the deletion, except that the definition of "negotiated subcontractor" has been retained in the contract clause for the convenience of contractors and subcontractors.

Other suggestions were received in which the Board was urged to modify other language in the contract clause which is taken directly from provisions in section 719. Preferring to use the statutory language, the Board has not accepted these suggestions. It has, however, modified its proposal in paragraph (b) so as to adopt the statutory language, as urged by one commentator.

Section 331.6 Post award disclosure. Two Federal agencies urged that the contracting agencies be authorized to make awards whenever the head of the agency concluded that it was impractical to secure a Disclosure Statement from a contractor or from a subcontractor. Recognizing that any avoidable delays in making procurements are undesirable, the Board has accepted this recommendation. The Board does not expect that the authority thus provided to agency heads will be abused, and it will be informed of all actions taken pursuant to this authority.

Section 351.14 Disclosure statement. Several commentators pointed out that the statement was too detailed or complex, or urged that the Statement be modified to require only a statement of cost accounting policy and philosophy. The Board believes that such generalized and unspecific statements would not assist it adequately in performance of its responsibilities. Further, in order to permit the statutory requirements of disclosure of cost accounting practices and consistency to be met, the Board concluded that the extent of detail now called for in the Disclosure Statement is necessary.

Two commentators suggested that references to ASPR, the Internal Revenue Code and financial accounting be deleted from the Disclosure Statement since the contractors stated they are irrelevant to their cost accounting practices. The Board did not agree with these suggestions for the reason that in most cases the regulations have been referred to in the Statement in lieu of redefining certain words, such as "Independent Research and Development Costs." Furthermore, with particular respect to the Internal Revenue Code, the Board cannot ignore that income tax considerations often influence cost accounting practices, such as those for depreciation.

The Board has deleted the item in the statement calling for an explanation of the difference between commercial and Government cost accounting practices since the Board agrees with several commentators that inclusion of such information in the Disclosure Statement is not needed.

An educational institution and one association pointed out that the terminology in the Disclosure Statement was not responsive to the special circumstances of educational institutions. The Board made appropriate word-changes to a number of items in the statement to accommodate educational institutions.

By far, the majority of the comments addressed to the Disclosure Statement dealt with suggestions for clarification of terminology and intent of the various items in the statement. The Board considered each comment and made appropriate revisions to the statement. The part most affected by these revisions is Part IV—Indirect Costs. Several items in the part were rearranged in sequence to improve clarity, and instructions covering the items in Part IV were restated.

Section 401.20 Purpose. Commentators stated that the purpose of the standard would require each contractor to revise his formal system of accounts in order to maintain them on a basis used for estimating Government contracts. The Board did not intend that requirement. The standard does not contain any requirement that a contractor must revise his formal system of accounts. Cost accounting records are supplemental to, and generally subsidiary to a contractor's financial records. However, it is necessary that the cost accounting records be reconcilable to the contractor's general financial records.

Two commentators believed that the term "practices" in the phrase "Practices used in estimating costs in pricing proposals" could be confused as including estimating techniques relating to quantitative determination as well as the cost accounting practices used in estimating. The Board does not agree, because nothing in the standard precludes the use of any quantitative estimating tools.

Section 401.50 Techniques for application. Several commentators believed there may be an inconsistency between the requirements of the standard and the ability to make changes to established cost accounting practices. The Board intends that compliance with respect to proposals shall be determined as of the award date of the contract or as of the date of final agreement on price if the contractor has submitted cost or pricing data pursuant to Public Law 87-653. Modifications of established cost accounting practices for accumulating and reporting costs are permitted by other regulations of the Cost Accounting

Standards Board without causing a violation of this standard. The Board has modified the standard to express these intentions.

Section 401.60 Illustration. An illustration has been added to this section to emphasize a requirement of the standard that any significant cost must be accumulated and reported in sufficient detail to permit its comparison with the estimates made therefor.

Part 402 Title. One commentator pointed out that the definition of the word "allocate" covered all of the actions encompassed by the word "charge" and, therefore the title of the standard should be changed to delete the words "charging and." The Board agrees and has made the appropriate change here and elsewhere throughout the standard.

Section 402.40 Fundamental requirement. A number of commentators suggested a change to the standard to eliminate the requirement that direct and indirect costs be consistently allocated to all final cost objectives. Making the standard applicable only to individual contracts would permit a choice to be made solely on the basis of short-term economic benefit; the Board therefore has not adopted the suggestion.

Section 402.50 Techniques for application. Several commentators noted that the standard discusses the required treatment of incurred costs but does not cover estimated costs. The Board intends that both types of costs be covered by the standard and has therefore added a new paragraph to this section to make that intention clear.

A number of commentators suggested that the concept of materiality be included in the standard to allow the handling of minor direct cost items as indirect costs similar to the treatment accorded materiality in current ASPR regulations. The Board agrees, and has included a materiality statement in this section.

Several commentators did not understand the relationship of this standard to the Disclosure Statement. (This relationship is set out in paragraph (b).) The Board intends to allow the contractor to disclose the cost accounting practices and criteria appropriate to his own situation while at the same time imposing the requirement that he adhere consistently to the choices once made. The Disclosure Statement is the vehicle by which the contractor describes the criteria and circumstances which define costs which are or are not incurred for the same purpose.

Effective date and application. For the convenience of readers, the following summarizes the effective dates set forth in § 331.8, § 351.4(e), and Parts 400, 401, and 402, which were transmitted to the Congress on February 24, 1972, pursuant to section 719(h)(3) of the Defense Production Act of 1950 as amended. After the expiration of a period of 60 calendar days of continuous session following the date of transmittal to the Congress, the regulations herein promulgated shall take effect as set forth in those regulations, unless there is passed by the two Houses a concurrent resolution stating in substance that the Congress does not favor the proposed standards, rules, or regulations.

1. The provisions of § 331.4 are to be included in all solicitations issued on or after July 1, 1972 which are likely to lead to contracts covered by standards, rules, and regulations of the Cost Accounting Standards Board.

2. The provisions of § 331.5 are to be included in all contracts resulting from solicitations covered by 1 above. In addition, these provisions are to be included in any other contract which is within the jurisdiction of the Cost Accounting Standards Board and which is awarded after October 1, 1972.

3. The provisions of Part 351 will be applicable to any contractor who submits a proposal which results in contracts containing the clause in § 331.5 and whose net awards of negotiated national defense prime contracts during Federal fiscal year 1971 totaled more than $30 million. Contractors whose net awards were less than that amount may be required to complete or submit a Disclosure Statement as the Board announces extensions of this requirement to such contractors.

4. Any contractor having a contract awarded prior to July 1, 1972, which contains a clause which already incorporates requirements governing submission of Disclosure Statements and application of Cost Accounting Standards will be required to comply with the provisions of that clause. In this connection, such contractor and the respective contracting agencies whose contracts contain such a clause should review those contracts to determine whether negotiations should be instituted to make Parts 400 through 402 applicable to them.

SUBCHAPTER C—PROCUREMENT PRACTICES

PART 331—CONTRACT COVERAGE

Sec.

AUTHORITY: The provisions of this Part 331 are issued under 84 Stat. 796, sec. 103; 50 U.S.C. App. 2168.

§ 331.1 Purpose and scope.

The regulations contained in this part are promulgated to implement the standards and the rules and regulations established by the Cost Accounting Standards Board pursuant to 50 U.S.C. App. 2168 (Public Law 91-379, August 15, 1970). The requirements set forth herein shall be binding upon all relevant Federal agencies and upon defense contractors and subcontractors.

§ 331.2 Definitions.

(a) A "relevant Federal agency" is any Federal agency making a national defense procurement and any agency whose responsibilities include review, approval, or other action affecting such a procurement.

(b) A "defense contractor" is any contractor entering into a contract with the United States for the production of material or the performance of services for the national defense.

(c) A "defense subcontractor" is any person other than the United States who contracts, at any tier, to perform any part of a defense contractor's contract.

(d) "National defense" is any program for military and atomic energy production or construction, military assistance to any foreign nations, stockpiling, space, and directly related activity.

(e) The definition of "established catalog or market prices of commercial items sold in substantial quantities to the general public" set out in the Armed Services Procurement regulation (32 CFR 3.807-1(b)), in effect at the date of the contract, shall be used.

(f) A "negotiated subcontract" is any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted.

(g) A "Disclosure Statement" is the Disclosure Statement required by Cost Accounting Standards Board regulation (Part 351 of this chapter).

§ 331.3 Applicability.

The head of each relevant Federal agency shall cause or require the clause set forth in § 331.5 captioned COST ACCOUNTING STANDARDS to be inserted in all negotiated defense contracts in excess of $100,000, other than contracts entered into by the agency where the price is based on: (a) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation. Additionally, all solicitations, likely to result in a contract in which the clause set forth in § 331.5 must be inserted, shall include the notice set forth in § 331.4 captioned DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION.

§ 331.4 Solicitation notice.

DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION

Any contract in excess of $100,000 resulting from this solicitation, except contracts where the price negotiated is based on: (1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation, will be subject to the requirements of the Cost Accounting Standards Board. Any offeror submitting a proposal, which, if accepted, will result in a contract subject to the requirements of the Cost Accounting Standards Board must, as a condition of contracting, submit a Disclosure Statement as required by regulations of the Board. The Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless, in compliance with agency procedures, the offeror has al-

ready submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal, or unless post-award submission has been authorized by the Contracting Officer in accordance with regulations of the Cost Accounting Standards Board (see 4 CFR 331.7). If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the following information: [1]

CERTIFICATION (APPLICABLE ONLY TO PROPOSALS RESULTING IN CONTRACTS SUBJECT TO COST ACCOUNTING STANDARD BOARD REQUIREMENTS)

By submission of this offer, the offeror certifies that his practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

§ 331.5 Contract clause.

The following clause shall be inserted in all contracts subject to Cost Accounting Standards Board requirements:

COST ACCOUNTING STANDARDS

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Public Law 91-379, August 15, 1970), the contractor, in connection with this contract shall:

(1) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The required disclosures must be made prior to contract award unless the Contracting Officer provides a written notice to the contractor authorizing post-award submission in accordance with regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the contractor and which contain this Cost Accounting Standards clause. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(2) Follow consistently the cost accounting practices disclosed pursuant to (1) above in accumulating and reporting contract performance cost data concerning this contract. If any change in disclosed practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a) (4) or (a) (5) below, as appropriate.

(3) Comply with all Cost Accounting Standards in effect on the date of awards of this contract or if the contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the contractor's signed certificate of current cost or pricing data. The contractor shall also comply with any Cost Accounting Standard which hereafter becomes applicable to a contract or subcontract of the contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

[1] (The agency issuing the solicitation should specify the data which it will accept if any in lieu of resubmission of a Disclosure Statement already submitted.)

(4) (A) Agree to an equitable adjustment as provided in the changes clause of this contract if the contract cost is affected by a Disclosure Statement change which the contractor is required to make pursuant to (3) above. If the contractor has not been required to file a Disclosure Statement but is required pursuant to (a) (3) above to change an established practice, then an equitable adjustment shall similarly be agreed to.

(B) Negotiate with the contracting officer to determine the terms and conditions under which any Disclosure Statement change other than changes under (4) (A) above may be made. A change to a Disclosure Statement may be proposed by either the Government or the contractor, provided, however, that no agreement may be made under this provision, that will increase costs paid by the United States under this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with an applicable Cost Accounting Standard or to follow any practice disclosed pursuant to subparagraphs (a) (1) and (a) (2) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor or a subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that this requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(ii) Prices set by law or regulation.

However, if this is a contract with an agency which permits subcontractors to appeal final decisions of the contracting officer directly to the head of the agency or his duly authorized representative, then the contractor shall include the substance of paragraph (b) as well.

NOTE: In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to his contractor or higher tier subcontractor, the contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the contractor was required to make submission of his Disclosure Statement. Such authorization shall in no way relieve the contractor of liability as provided in paragraph (a) (5) of this clause. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the Cost Accounting Standards Board in connection with covered subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the contractor and the subcontractor, provided that they do not conflict with the duties of the contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by his subcontractors.

(e) The terms defined in § 331.2 of Part 331 of Title 4, Code of Federal Regulations (4 CFR 331.2) shall have the same meanings herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

§ 331.6 Post-award disclosure.

(a) As specified in the solicitation notice and contract clause set forth in § 331.5, Disclosure Statements must be submitted by offerors required to make disclosure prior to contract award unless the contracting officer authorizes in writing post-award submission. As specified in the contract clause set forth in § 331.5, Disclosure Statements must be submitted by prospective subcontractors required to make disclosure prior to subcontract award unless the contracting officer at the request of the contractor authorizes in writing post-award submission.

(b) Post-award submission may be authorized only when the contracting officer has made a written determination that such authorization is essential (1) to the national defense, (2) because of the public exigency, or (3) to avoid undue hardship. Each determination shall set forth facts which clearly support the determination to authorize post-award submission, and a copy of the determination shall be included in the contract file. Authorization issued pursuant to this paragraph shall specify the time, not to exceed 90 days after contract or subcontract award, by which disclosure must be made.

(c) In the event the agency head determines that it is impractical to secure a required Disclosure Statement in accordance with the contract clause and this section, he may authorize award of such contract or subcontract. He shall within 30 days thereafter submit a report to the Cost Accounting Standards Board, setting forth all material facts. The authority in this § 331.6(c) shall not be delegated.

§ 331.7 Interpretation.

(a) Increased costs paid by the United States as referred to in paragraph (a) (5) of the Cost Accounting Standards clause in § 331.5 shall be deemed to have re-

sulted whenever the cost paid by the Government results from application of practices other than the contractor's disclosed practices or from failure to comply with applicable Cost Accounting Standards, and such cost is higher than it would have been had the disclosed practices been followed or applicable Cost Accounting Standards been complied with.

(b) In negotiated firm fixed-price type contracts, however, "increased costs" cannot be interpreted in terms of a higher level of costs reimbursed during contract performance, since in such contracts the price to be paid would normally be the price agreed to. That price will have been based on the requirement that the contractor use his disclosed practices and comply with applicable Cost Accounting Standards. Subsequently, if the contractor fails during contract performance to follow his disclosed practices or to comply with applicable Cost Accounting Standards, any increased cost to the United States by reason of that failure must be measured by the difference between the cost estimates used in negotiations and the cost estimates that would have been used had the contractor proposed on the basis of the practices actually used during contract performance. (In cases where an offset of decreased costs allocated to firm fixed-price contracts against increased costs allocated to cost reimbursement type contract may be involved, the provisions of paragraph (f) of this section shall apply.)

(c) The statutory requirement underlying this interpretation is that the United States not pay increased costs, including a profit enlarged beyond that in the contemplation of the parties to the contract when the contract costs, price, or profit is negotiated, by reason of a contractor's failure to use applicable Cost Accounting Standards or to follow his disclosed practices. In making price adjustments under paragraph (a)(5) of the Cost Accounting Standards clause in § 331.5, in fixed-price or cost-reimbursement incentive contracts, or contracts providing for prospective or retroactive price redetermination, the Federal agency shall apply this requirement appropriately in the circumstances.

(d) The contractor and the contracting officer may enter into an agreement as contemplated by paragraph (a)(4)(B) of the Cost Accounting Standards clause in § 331.5, covering a change in practice proposed by the Government or the contractor for all of the contractor's contracts for which the contracting officer is responsible, provided that the agreement does not permit any increase in the cost paid by the Government. Such agreement may be made final and binding, notwithstanding the fact that experience may subsequently estabilsh that the actual impact of the change differed from that agreed to.

(e) To facilitate agreements with a contractor who has a large number of contracts affected by a proposed change in his disclosed cost accounting practices or affected by application of Cost Accounting Standards, contracting agencies are urged to establish procedures under which the contractor may seek, and in proper cases obtain, agreement with a single official concerning the impact of the proposed change or application of standards upon all such contracts of that agency.

(f) In one circumstance an adjustment to the contract price or of cost allowances pursuant to paragraph (a)(4)(B) of the Cost Accounting Standards clause in § 331.5 may not be required when an amendment to disclosed practices is estimated to result in increased costs being paid under a particular contract by the United States. This circumstance may arise when a contractor is performing two or more contracts, subject to Cost Accounting Standards Board rules, regulations, and standards, with an agency or agencies of the United States, and when he proposes to change a practice disclosed for all such contracts. The amendment may increase the cost paid under one or more of the contracts, while decreasing the cost paid under one or more of the contracts. In such case, the Government will not pursuant to paragraph (a)(4)(B) require price adjustment for any increased costs paid by the United States so long as the costs decreased under one or more contracts are at least equal to the increased cost under the other affected contracts, provided that the contractor and all affected contracting officers agree on the method by which the price adjustments are to be made for all affected contracts. In this situation, the contracting agencies would, of course, require an adjustment of the contract price or cost allowances, as appropriate, to the extent that the increases under certain contracts were not offset by the decreases under the remaining contracts.

(g) Where, through inadvertence, the contractor has failed to use applicable Cost Accounting Standards or to follow his disclosed practices and has not notified his contracting officer or officers of that failure, if the result of that failure is to increase costs paid under one or more contracts, while decreasing costs paid under one or more contracts, the contracting officer or officers of the agency or agencies concerned are urged, in the interest of administrative convenience, to negotiate the adjustment of the contract prices or cost allowances, as appropriate, of the affected contracts by requiring repayment of only the difference between the estimated price increases and the estimated price decreases, together with any applicable interest.

§ 331.8 Effective date.

The Disclosure Statement requirement at § 331.4 shall be included in all applicable solicitations issued on or after July 1, 1972, and all resulting contracts shall contain the contract clause at § 331.5. In any event, any other contract which is within the jurisdiction of the Cost Accounting Standards Board and which is awarded on or after October 1, 1972, shall contain that contract clause. Relevant Federal agencies shall notify the Cost Accounting Standards Board not later than June 1, 1972, of the action taken to implement this regulation.

SUBCHAPTER E—DISCLOSURE STATEMENT

PART 351—BASIC REQUIREMENTS

Sec.

AUTHORITY: The provisions of this Part 351 are issued under 84 Stat. 796, sec. 103; 50 U.S.C. App. 2168.

§ 351.1 [Reserved]

§ 351.2 Purpose.

This regulation is promulgated pursuant to section 719 of the Defense Production Act of 1950, as amended by 84 Stat. 796 (Public Law 91-379), to provide the means by which affected persons can satisfy the requirements established by that law for disclosure of their cost accounting practices and to promulgate the Disclosure Statement form. The regulation also sets forth the administrative procedures to be followed by the Cost Accounting Standards Board and relevant Federal agencies in connection with such disclosures.

§ 351.3 Definitions.

A "profit center" is the smallest organizationally independent segment of a company which has been charged by management with profit and loss responsibilities.

§ 351.4 Filing requirement.

(a) The requirements of this part are applicable to all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000 other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. A separate Disclosure Statement must be submitted covering the practices of each of the contractor's profit centers, divisions, or similar organizational units whose costs included in the total price of any contract exceed $100,000, except where such costs are based on (i) established catalog or market prices of commercial items sold in substantial quantities to the general public or (ii) prices set by law or regulation. If the cost accounting practices under contracts are identical for more than one organizational unit, then only one Statement need be submitted for those units, but each such organizational unit must be identified. A Disclosure Statement will also be required for each Corporate or Group Office whose costs are allocated to one or more corporate segments performing contracts covered by Public Law 91-379.

(b) The requirements also apply to each subcontractor of whatever tier under a prime contract subject to these provisions provided the subcontract would, if it were a prime contract with the United States, be covered by the above statement of applicability for negotiated national defense contracts.

(c) The practices disclosed pursuant to these requirements shall be followed on all contracts and subcontracts subject to Public Law 91-379 being performed by the contractor or subcontractor.

(d) The Cost Accounting Standards Board will not make Disclosure Statements public in any case when the contractor files its statement specifically conditioned on the Government's agreement to treat the Disclosure Statement as confidential information.

(e) Every contractor and subcontractor covered by this subchapter must submit a Disclosure Statement as a condition of contracting. In order to minimize the administrative burdens upon contracting agencies, the initial requirement for filing is a phased requirement. Each company which together with its subsidiaries received net awards of negotiated national defense prime contracts during Federal fiscal year 1971 (July 1, 1970 through June 30, 1971) totaling more than $30 million must submit completed Disclosure Statements prior to receipt of any contract containing the clause set forth in § 331.5 of this chapter. From time to time, the Board will announce the dates of applicability to other contractors and subcontractors. Because a failure to submit an adequate, timely Disclosure Statement may result in the denial of a contract or subcontract award, relevant Federal agencies should act promptly to assure that affected companies submit Disclosure Statements as prescribed herein at the earliest possible time.

§ 351.5 Contract awards.

(a) After October 1, 1972, no relevant Federal agency shall award any national defense contract subject to this regulation to any contractor who during Federal fiscal year 1971 received net awards of negotiated contracts totaling $30 million or more unless such contractor has submitted a completed Disclosure Statement as required herein. As set forth in the contract clause at § 331.5 of this chapter, the contracing officer may, in certain circumstances, authorize post-award submission, notwithstanding the requirement of this section.

(b) No subcontract shall be awarded to any subcontractor required to file a Disclosure Statement pursuant to the filing requirement of § 351.4 unless the subcontractor has satisfied that requirement by submitting such Statement to to the Government in the manner prescribed by agency regulations and agreed to with the prime contractor under whom the subcontract is to be awarded.

§ 351.6 Forms.

Disclosure Statements shall contain complete and accurate responses to the items set forth in § 351.14. For the convenience of persons required to submit Disclosure Statements, the Cost Accounting Standards Board has devised a form, Form No. CASB-DS-1, which should be used. Copies of the form may be requested by relevant Federal agencies for distribution to affected contractors and subcontractors from the Administrative Officer of the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548. If for any reason, copies of the form cannot be obtained, the required information shall be supplied in a form substantially in accord with the arrangement set forth in § 351.14.

Each national defense contractor shall submit a copy of each Disclosure Statement, and any amendments thereto in accordance with the method prescribed by each Federal agency for which the contractor is performing or proposes to perform contracts subject to the rules, regulations, and standards of the Cost Accounting Standards Board. Concurrently, a copy shall also be submitted to the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548.

§ 351.8 Incorporation of Disclosure Statement.

Every solicitation subject to the standards, rules, and regulations of the Cost Accounting Standards Board shall contain a provision allowing the contractor to identify and incorporate by reference, a Disclosure Statement already on file which will be applicable to that solicitation. Such identification and incorporation shall satisfy the requirement for disclosure as a condition of contracting. Agencies may, nonetheless, require submission of additional copies of such Disclosure Statement to the extent deemed necessary.

§ 351.9 Adequacy of Disclosure Statement.

Federal agencies shall prescribe regulations by which each will determine that a Disclosure Statement has adequately disclosed the practices required to be disclosed by Cost Accounting Standards Board's standards, rules, and regulations. Agencies are urged to coordinate development of such regulations. The disclosure Statement submitted to the Cost Accounting Standards Board in accord with § 351.7, is for evaluation and development of Board programs only. Consequently, such submission to the Board does not satisfy the requirement for disclosure as a condition of contracting, nor does any action by the Board with respect to such statement constitute a finding of any kind regarding the adequacy of the statements as submitted.

§ 351.10 Effect of filing Disclosure Statement.

Unless the Federal agency involved provides otherwise either by regulation or by specific notice to the contractor involved, a Disclosure Statement submitted to the agency or incorporated by reference shall be presumed adequate to meet the requirement that disclosure be made as a condition of contracting. The fact that the condition of contracting has been met shall serve only to establish what the contractor's cost accounting practices are or are proposed to be. In the absence of specific regulation or agreement, a disclosed practice shall not, by virtue of such disclosure, be deemed to have been approved by the agency involved as a proper, approved or agreed practice for pricing proposals or accumulating and reporting contract performance cost data.

§ 351.11 Early filing.

In order to permit orderly processing of Disclosure Statements, all prospective contractors and subcontractors are urged to submit Disclosure Statements as soon as possible. Notwithstanding such early filings, contractors will be bound to adhere to disclosed practices only with respect to contracts under which the contractor would otherwise be required to adhere to his disclosed practices pursuant to § 351.4.

§ 351.12 Amendment of Disclosure Statement.

(a) Disclosure Statement amendments may be submitted at any time. Contractors are reminded, however, that any amendments to Disclosure Statements must be made applicable prospectively to all contracts and subcontracts subject to Cost Accounting Standards. For this reason, all relevant Federal agencies are strongly urged to establish interagency procedures for promptly coordinating agency activities stemming from changes in disclosed practices.

(b) Disclosure Statements must be amended for practices that must be changed to comply with Cost Accounting Standards which become applicable subsequent to the initial filing of the Disclosure Statements. Equitable adjustment of contract price or cost allowance will be made as set out in paragraph (a)(4)(A) of § 331.5 of this chapter.

(c) Disclosure Statements must also be amended for changes in practices voluntarily agreed to by the parties. In this event, the contractor and the contracting officer(s) may enter into an agreement as contemplated by paragraph (a)(4)(B) of § 331.5 of this chapter. Such agreement may specify the impact that a Government or contractor proposed change in practice shall be deemed to have on costs paid under one or more existing contract(s) for which the contracting officer(s) is responsible. Such agreement may be made final and binding, notwithstanding the fact that experience may subsequently establish that actual impact of the change differed from that agreed to.

(d) Amendments shall be submitted to the same offices, including the Cost Accounting Standards Board, to which submission would have to be made were an original Disclosure Statement being filed. Revised data for Items 1.4.0 through 1.7.0, 8.1.0 and 8.2.0 must be submitted annually at the beginning of the contractor's fiscal year. If fewer than five of the other items in the Disclosure Statement on file are changed, a letter notice precisely identifying the Disclosure Statement, the specific items being amended, and the nature of the changes will suffice. If five or more items are changed, the entire Disclosure Statement shall be resubmitted. Resubmitted

Disclosure Statements must be accompanied by a notation specifying the items which have been changed and the nature of the change.

§ 351.13 Instructions and information.

The following instructions and information shall be used by persons completing Disclosure Statements.

INSTRUCTIONS AND INFORMATION

(a) This Disclosure Statement has been designed to meet the requirements of Public Law 91-379, and persons completing it are to describe their contract cost accounting practices. For timing of requirement to file a Disclosure Statement, see § 351.4. A statement must be submitted by all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000 other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. A separate Disclosure Statement must be submitted covering the practices of each of the contractor's profit centers, divisions, or similar organizational units, whose costs included in the total price of any contract exceed $100,000, except where such costs are based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. If the cost accounting practices under contracts are identical for more than one organizational unit, then only one statement need be submitted for those units, but each such organizational unit must be identified. A Disclosure Statement will also be required for each corporate or group office when costs are allocated to one or more corporate segments performing contracts covered by Public Law 91-379, but only Part VIII of the statement need be completed.

(b) The statement must be signed by an authorized signatory of the reporting unit.

(c) The disclosure of a cost accounting practice by a contractor does not determine the allowability of particular items of cost. Irrespective of the practices disclosed by a contractor, the question of whether or not, or the extent to which, a specific element of cost is allowed under a contract remains for consideration in each specific instance. Contractors are cautioned that the determination of the allowability of cost items will remain a responsibility of the contracting officers pursuant to the provisions of the applicable procurement regulations.

(d) Unless the Federal agency involved provides otherwise, either by regulation or by specific notice to the contractor involved, a Disclosure Statement submitted to the agency or incorporated by reference should be presumed adequate to meet the requirement that disclosure be made as a condition of contracting. In the absence of specific regulations or agreement, a disclosure practice should not, by virtue of such disclosure, be deemed to have been approved by the agency involved as a proper, approved, or agreed practice for pricing proposals or accumulating and reporting contract performance cost data.

(e) The individual Disclosure Statement may be used in audits of contracts or in negotiation of prices leading to contracts. The authority of the audit agencies and the contracting officers is in no way abrogated by the material presented by the contractor in his Disclosure Statement. Contractors are cautioned that their disclosures in response to the items herein must be complete and accurate; the practices disclosed may have a significant impact on ways in which contractors will be required to comply with Cost Accounting Standards.

(f) This Disclosure Statement should be answered by checking the appropriate box or inserting the applicable Code letter which most nearly describes the reporting unit's cost accounting practices. Part I of the statement asks for general information concerning the reporting unit. Part VIII covers Corporate and Group (Intermediate) offices whose costs are allocated to one or more segments performing contracts covered by Public Law 91-379. Part VIII should be completed by each such office, and care should be taken to insure proper identification of such offices on the cover of the Disclosure Statement. In short, while a Corporation or group office may have more than one reporting unit submitting Disclosure Statements, only one statement need be submitted to cover the Corporate or Group Office operations.

(g) A number of questions in this statement may need narrative answers requiring more space than is provided. In such instances, the reporting unit should use the continuation sheets provided or a facsimile thereof. The number of the question involved should be indicated and the same coding required to answer the questions in the statement should be used in presenting the answer in the continuation sheet. The reporting unit should indicate on the last continuation sheet used, the number of such sheets that were used.

(h) Contractors to whom Public Law 91-379 is applicable are required to follow consistently their disclosed practices in pricing contract proposals and in accumulating and reporting contract performance cost data. If deviation from disclosed practices results in increased costs being paid by the Government, contractors will be required to repay to the Government the amount of the increased costs together with interest charges.

(i) Public Law 91-379 contains an access to records clause, section 719(j) of the Law states:

"For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost accounting standards and has followed consistently his disclosed cost accounting practices, any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost accounting standards and principles."

§ 351.14 Disclosure Statement.

The data which are required to be disclosed are set forth in detail in the Disclosure Statement form CASB-DS-1 which will be devised by the Cost Accounting Standards Board and will be arranged substantially as set forth below.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	COVER SHEET AND CERTIFICATION

0.1 Company or Reporting Unit.

Name

Street Address

City, state, & zip code

Division or subsidiary of (if applicable)

0.2 Reporting Unit is: (Check one.)

A. [ ] Corporate (Home) office B. [ ] Group office

C. [ ] Division or subsidiary D. [ ] Other

0.3 Official to Contact Concerning this Statement.

Name and title

Phone number (incl. area code and extension)

0.4 Date of:

This statement

Most recent prior statement

CERTIFICATION

I certify that to the best of my knowledge and belief this Statement is the complete and accurate disclosure as of the above date by the above-named organization of its cost accounting practices, as required by the Disclosure Regulation of the Cost Accounting Standards Board under 50 U.S.C. App. 2168, Public Law 91-379, (4 CFR 351).

(Name)

(Title)

- THE PENALTY FOR MAKING A FALSE STATEMENT IN THIS DISCLOSURE IS PRESCRIBED IN 18 U.S.C. 1001.

FORM CASB-DS-1

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	INDEX

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART I - GENERAL INFORMATION

Item No.	ITEM DESCRIPTION

Instructions for Part I

Sales data for this part should cover the most recently completed fiscal year of the reporting unit. "Government Sales" includes sales under both prime contracts and subcontracts. "Annual Total Sales" includes intracorporate transactions. Educational institutions may skip Items 1.4.0 and 1.6.0, and consider sales as used in Items 1.5.0 and 1.7.0 to refer to research revenues.

Estimates are permitted for Items 1.4.0 through 1.7.0.

1.1.0 Type of Business Entity of Which the Reporting Unit is a Part. (Check one.)

A. [ ] Corporation
B. [ ] Partnership
C. [ ] Proprietorship
D. [ ] Not-for-profit organization
E. [ ] Joint venture
F. [ ] Educational institution

1.2.0 Predominant Type of Government Sales. (Check one.)

A. [ ] Manufacturing
B. [ ] Research and Development
C. [ ] Construction
D. [ ] Services
Y. [ ] Other (specify) _____

1.3.0 Principal Product or Service Sold to the Government. (Specify name of product or service and enter code from Instructions.)

Name _____ Code [ ][ ][ ][ ]

1.4.0 Annual Total Sales (Government and Commercial). (Check one.)

A. [ ] Less than $1 million
B. [ ] $1-$10 million
C. [ ] $11-$25 million
D. [ ] $26-$50 million
E. [ ] $51-$100 million
F. [ ] $101-$200 million
G. [ ] $201-$500 million
H. [ ] Over $500 million

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART I - GENERAL INFORMATION

Item No.	ITEM DESCRIPTION
1.5.0	Annual Total Government Sales. (Check one.) A. [ ] Less than $1 million B. [ ] $1-$10 million C. [ ] $11-$25 million D. [ ] $26-$50 million E. [ ] $51-$100 million F. [ ] $101-$200 million G. [ ] $201-$500 million H. [ ] Over $500 million
1.6.0	Government Sales (Item 1.5.0) as Percentage of Total Sales (Item 1.4.0). (Check one.) A. [ ] Less than 10% B. [ ] 10%-50% C. [ ] 51%-80% D. [ ] 81%-95% E. [ ] Over 95%
1.7.0	Government Subcontract Sales as Percentage of Total Government Sales (Item 1.5.0). (Check one.) A. [ ] Less than 10% B. [ ] 10%-50% C. [ ] 51%-80% D. [ ] 81%-95% E. [ ] Over 95%
1.8.0	Description of Your Cost Accounting System for Government Contracts and Subcontracts. (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.) A. [ ] Standard costs - Job order B. [ ] Standard costs - Process C. [ ] Actual costs - Job order D. [ ] Actual costs - Process Y. [ ] Other(s) (Describe on a continuation sheet.)
1.9.0	Integration of Cost Accounting with Financial Accounting. The cost accounting system is: (Check one. If B or C is checked, describe on a continuation sheet the costs which are accumulated on memorandum records.) A. [ ] Integrated with financial accounting records (Subsidiary cost accounts are all reconcilable to general ledger control accounts.)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART I - GENERAL INFORMATION

Item No.	ITEM DESCRIPTION
1.9.0	Continued B. [ ] Not integrated with financial accounting (Cost data are accumulated on memorandum records.) C. [ ] Combination of A and B above
1.10.0	Unit or Job Costs. Is your cost accounting system capable of producing unit or job lot costs during contract performance? (Check one.) A. [ ] Yes (If Yes, describe on a continuation sheet the method used or which could be used to arrive at such costs.) B. [ ] No (Interim repricing not involved.) C. [ ] No (Interim repricing involved. Describe on a continuation sheet the manner in which interim repricing is developed.)
1.11.0	Year, Month, Day on Which Your Most Recent Fiscal Year Ended. (Enter in blocks below. Use numeric terms, e.g., 710630 for June 30, 1971; 711231 for December 31, 1971.) [ ][ ][ ][ ][ ][ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART II - DIRECT COSTS

Item No.	ITEM DESCRIPTION
	Instructions for Part II This part covers three major elements of direct costs, i.e., Direct Materials, Direct Labor, and Other Direct Costs. It is not the intent here to spell out or define the three elements of direct costs. Rather, contractors should disclose practices based on their own definitions of what costs are, or will be, charged directly to Government contracts or similar cost objectives as Direct Materials, Direct Labor, or Other Direct Costs. For example, some contractors may charge or classify purchased labor of direct nature, as "Direct Materials" for purposes of pricing proposals, requests for progress payments, claims for cost reimbursement, etc.; some other contractors may classify the same cost as "Direct Labor," and still others as "Other Direct Costs." In these circumstances, it is expected that contractors will disclose practices consistent with their own classifications of Direct Materials, Direct Labor, and Other Direct Costs.
2.1.0	Description of Direct Materials. Direct Materials as used here are not limited to those items of materials actually incorporated into the end product; they also include materials, consumable supplies, and other costs when charged to Government contracts or similar cost objectives as Direct Materials. (Describe on a continuation sheet the principal classes of materials and service costs which are charged as direct materials; group the materials and service costs by those which are incorporated in an end product and those which are not.)
2.2.0	Method of Charging Direct Materials.
2.2.1	Direct Charge Not Through an Inventory Account at: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.) A. [ ] Standard costs (Describe the type of standards used, e.g., current standards, basic standards, etc., on a continuation sheet.) B. [ ] Actual costs Y. [ ] Other(s) (Describe on a continuation sheet.) Z. [ ] Not applicable

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART II - DIRECT COSTS

Item No.	ITEM DESCRIPTION
2.2.2	Charged from Central or Common, Company-owned Inventory Account at: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.) A. [ ] Standard costs (Describe the type of standards used on a continuation sheet.) B. [ ] Average costs C. [ ] First in, first out D. [ ] Last in, first out Y. [ ] Other(s) (Describe on a continuation sheet.) Z. [ ] Not applicable
2.3.0	Timing of Charging Direct Materials Incorporated in End Product. (Check the appropriate block(s) to indicate the point in time at which materials incorporated in the end product are charged to Government contracts or similar cost objectives, and if more than one block is checked, explain on a continuation sheet.) A. [ ] When orders are placed B. [ ] When material is received, or when fabricated, if fabricated in-house C. [ ] When material is issued or released to jobs D. [ ] When consumed or incorporated in end product E. [ ] When invoices are vouchered or paid Y. [ ] Other(s) (Describe on a continuation sheet.) Z. [ ] Not applicable
2.4.0	Variances from Standard Costs for Direct Materials. (Do not complete this item unless you use a standard cost method, i.e., you have checked Block A of Item 2.2.1 or 2.2.2. Check the appropriate block(s) in Items 2.4.1, 2.4.2, 2.4.3 and 2.4.4, and if more than one block is checked, explain on a continuation sheet.)
2.4.1	Type of Variance. A. [ ] Price B. [ ] Usage C. [ ] Combined (A and B) Y. [ ] Other(s) (Describe on a continuation sheet.)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART II - DIRECT COSTS

Item No.	ITEM DESCRIPTION
2.4.2	Method of Accumulating Variance. A. [ ] Plant-wide basis B. [ ] By department C. [ ] By product or product line D. [ ] By contract Y. [ ] Other(s) (Describe on a continuation sheet.)
2.4.3	Method of Disposing of Variance. (Describe on a continuation sheet the basis for, and the frequency of, the disposition of the variance.) A. [ ] Prorated between inventories and cost of goods sold B. [ ] Charged or credited only to cost of goods sold C. [ ] Charged or credited only to overhead Y. [ ] Other(s) (Describe on a continuation sheet.)
2.4.4	Revisions. Standard costs for direct materials are revised: A. [ ] Semiannually B. [ ] Annually C. [ ] Revised as needed, but at least once annually Y. [ ] Other(s) (Describe on a continuation sheet.)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART II - DIRECT COSTS

Item No.	ITEM DESCRIPTION
2.5.0	Method of Charging Direct Labor. (Check the appropriate block(s) for each Direct Labor Category to show how such labor is charged to Government contracts or similar cost objectives, and if more than one block is checked, explain on a continuation sheet. Also describe on a continuation sheet the principal classes of labor or costs that are, or will be, included in Manufacturing Labor, Engineering Labor, and Other Direct Labor, as applicable.)

	Direct Labor Category		
	Manufacturing (1)	Engineering (2)	Other Direct (3)
A. Individual/actual rates	[ ]	[ ]	[ ]
B. Average rates (Describe the type of average rates on a continuation sheet.)	[ ]	[ ]	[ ]
C. Standard costs/rates (Describe the type of standards used on a continuation sheet.)	[ ]	[ ]	[ ]
Y. Other(s) (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
Z. Labor category is not applicable	[ ]	[ ]	[ ]

2.6.0 Variances from Standard Costs for Direct Labor. (Do not complete this item unless you use a standard cost/rate method, i.e., you have checked Block C of Item 2.5.0 for any direct labor category. Check the appropriate block(s) in each column of Items 2.6.1, 2.6.2 and 2.6.3, and in Item 2.6.4. If more than one is checked, explain on a continuation sheet.)

2.6.1 Type of Variance.

	Direct Labor Category		
	Manufacturing (1)	Engineering (2)	Other Direct (3)
A. Rate	[ ]	[ ]	[ ]
B. Efficiency	[ ]	[ ]	[ ]
C. Combined (A and B)	[ ]	[ ]	[ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART II - DIRECT COSTS

Item No.	ITEM DESCRIPTION			
2.6.1	Continued			
	Y. Other(s) (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
	Z. Labor category is not applicable	[ ]	[ ]	[ ]
2.6.2	Method of Accumulating Variance.	Direct Labor Category		
		Manufacturing (1)	Engineering (2)	Other Direct (3)
	A. Plant-wide basis	[ ]	[ ]	[ ]
	B. By department	[ ]	[ ]	[ ]
	C. By product or product line	[ ]	[ ]	[ ]
	D. By contract	[ ]	[ ]	[ ]
	Y. Other(s) (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
	Z. Labor category is not applicable	[ ]	[ ]	[ ]
2.6.3	Method of Disposing of Variance. (Describe on a continuation sheet the basis for, and the frequency of, the disposition of the variance.)	Direct Labor Category		
		Manufacturing (1)	Engineering (2)	Other Direct (3)
	A. Prorated between inventories and cost of goods sold	[ ]	[ ]	[ ]
	B. Charged or credited only to cost of goods sold	[ ]	[ ]	[ ]

FORM CASB-DS-1 - 8 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART II - DIRECT COSTS

Item No.	ITEM DESCRIPTION			
2.6.3	Continued			
	C. Charged or credited only to overhead	[ ]	[ ]	[ ]
	Y. Other(s) (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
	Z. Labor category is not applicable	[ ]	[ ]	[ ]

2.6.4 Revisions. Standard costs for direct labor are revised:

A. [ ] Semiannually B. [ ] Annually

C. [ ] Revised as needed, but at least once annually Y. [ ] Other(s) (Describe on a continuation sheet.)

2.7.0 Credits to Contract Costs. When Government contracts or similar cost objectives are credited for the following circumstances, are the rates of direct labor, direct materials, other direct costs and applicable indirect costs always the same as those for the original charges? (Check one block for each circumstance, and for each "No" answer, explain on a continuation sheet how the credit differs from original charge.)

Circumstance	A. Yes	B. No	Z. Not Applicable
(a) Transfers to other jobs/ contracts	[ ]	[ ]	[ ]
(b) Unused or excess materials remaining upon completion of contract	[ ]	[ ]	[ ]

FORM CASB-DS-1 - 9 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART II - DIRECT COSTS

Item No.	ITEM DESCRIPTION

2.8.0 Interorganizational Transfers.

This item is directed only to those materials, supplies, and services which are, or will be, transferred to you from divisions, subsidiaries, or affiliates under common control with you.

(Check the appropriate block(s) in each column to indicate the basis used by you as transferee to charge the cost or price of interorganizational transfers of materials, supplies, and services to Government contracts or similar cost objectives. If more than one block is checked, explain on a continuation sheet. Full cost means the cost incurred as set forth in ASPR 15-205.22(e) or other pertinent procurement regulations.)

Basis	Materials (1)	Supplies (2)	Services (3)
A. At full cost excluding transferor's general and administrative (G&A) expenses	[ ]	[ ]	[ ]
B. At full cost including transferor's G&A expenses	[ ]	[ ]	[ ]
C. At full cost (A or B above) plus a markup percentage	[ ]	[ ]	[ ]
D. At established catalog or market price or prices based on adequate competition	[ ]	[ ]	[ ]
Y. Other(s) (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
Z. Interorganizational transfers are not applicable	[ ]	[ ]	[ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART III - DIRECT VS. INDIRECT

Item No.	ITEM DESCRIPTION

3.1.0 Criteria for Determining How Costs are Charged to Government Contracts or Similar Cost Objectives. (Describe on a continuation sheet your criteria for determining whether costs are charged directly or indirectly.)

3.2.0 Treatment of Costs of Specified Functions, Elements of Cost, or Transactions. (For each of the functions, elements of cost or transactions listed in Items 3.2.1, 3.2.2, and 3.2.3, enter one of the Codes A through F, or Y, to indicate how the item is treated. Enter Code Z in those blocks that are not applicable to you. Also, specify the name(s) of the indirect pool(s) for each function, element of cost, or transaction Coded E or F. If Code E, Sometimes direct/Sometimes indirect, is used and if there is a deviation from the criteria described in response to Item 3.1.0, explain on a continuation sheet the circumstances involved which cause the deviation.)

Treatment Code

A. Direct material
B. Direct labor
C. Direct material and labor
D. Other direct costs
E. Sometimes direct/Sometimes indirect
F. Indirect only
Y. Other(s) (Describe on a continuation sheet.)
Z. Not applicable

3.2.1 Functions, Elements of Cost, or Transactions Relative to Direct Materials	Treatment Code	Name of Pool(s)
(a) Cash discounts on purchases	[ ]	
(b) Freight in	[ ]	
(c) Income from sale of scrap	[ ]	
(d) Income from sale of salvage	[ ]	
(e) Incoming material inspection	[ ]	
(f) Inventory adjustments	[ ]	
(g) Purchasing	[ ]	
(h) Trade discounts, refunds, rebates, and allowances on purchases	[ ]	

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART III - DIRECT VS. INDIRECT

Item No.	ITEM DESCRIPTION	Treatment Code	Name of Pool(s)
3.2.2	Functions, Elements of Cost, or Transactions Relative to Direct Labor		
	(a) Health insurance	[ ]	
	(b) Holiday differential (premium pay)	[ ]	
	(c) Overtime premium pay	[ ]	
	(d) Pension costs	[ ]	
	(e) Shift premium pay	[ ]	
	(f) Training	[ ]	
	(g) Travel and subsistence	[ ]	
	(h) Vacation pay	[ ]	
3.2.3	Functions, Elements of Cost, or Transactions Miscellaneous		
	(a) Design engineering (in-house)	[ ]	
	(b) Drafting (in-house)	[ ]	
	(c) Computer operations (in-house)	[ ]	
	(d) Contract administration	[ ]	
	(e) Freight out (finished product)	[ ]	
	(f) Line (or production) inspection	[ ]	
	(g) Packaging and preservation	[ ]	
	(h) Preproduction costs and start-up costs	[ ]	
	(i) Production shop supervision	[ ]	

FORM CASB-DS-1

- 12 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART III - DIRECT VS. INDIRECT

Item No.	ITEM DESCRIPTION	Treatment Code	Name of Pool(s)
3.2.3	Continued		
	(j) Professional services (consultant fees)	[ ]	
	(k) Purchased labor of direct nature (on premises)	[ ]	
	(l) Purchased labor of direct nature (off premises)	[ ]	
	(m) Rearrangement costs	[ ]	
	(n) Rework costs	[ ]	
	(o) Royalties	[ ]	
	(p) Scrap work	[ ]	
	(q) Special test equipment (as defined in ASPR 15-205.40 or other pertinent procurement regulations)	[ ]	
	(r) Special tooling (as defined in ASPR 15-205.40 or other pertinent procurement regulations)	[ ]	
	(s) Subcontract costs	[ ]	
	(t) Warranty costs	[ ]	
3.3.0	Other Costs Charged Direct to Contracts. (Describe on a continuation sheet all other significant functions, elements of cost, or transactions charged to Government contracts or similar cost objectives as direct material, direct labor or other direct costs. Do not include functions or costs covered in Items 2.1.0, 2.5.0, and 3.2.0 which are always charged direct. Describe also whether there are any deviations from the criteria set out in Item 3.1.0 with respect to any continuation sheet items.)		

FORM CASB-DS-1

- 13 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART IV - INDIRECT COSTS

Item No.	ITEM DESCRIPTION
	Instructions for Part IV
	For the purpose of this part, indirect costs have been divided into three categories: (i) manufacturing, engineering, and comparable indirect costs, (ii) general and administrative (G&A) expenses, and (iii) service center costs, as defined in Item 4.3.0. The term "overhead," as used in this part, refers only to the first category of indirect costs.
	The following Allocation Base Codes are provided for use in connection with Items 4.1.0, 4.2.0 and 4.3.0. Educational institutions, to which ASPR XV, Part 3 applies, may enter Code Y for Items 4.1.0(n), 4.2.0(n) and 4.3.0(l), and describe on a continuation sheet the indirect cost pools and the bases for allocating such pools of expenses to Government contracts or similar cost objectives.
	A. Sales B. Cost of sales C. Cost input (direct material, direct labor, other direct costs and applicable overhead) D. Total cost incurred (cost input plus G&A expenses) E. Prime cost (direct material, direct labor and other direct cost) F. Processing or conversion cost (direct labor and applicable overhead) G. Direct labor dollars H. Direct labor hours I. Machine hours J. Usage K. Unit of product L. Direct material cost M. Total payroll dollars (direct and indirect employees) N. Headcount or number of employees (direct and indirect employees) O. Square feet Y. Other(s) or more than one basis (Describe on a continuation sheet.) Z. Pool not applicable
4.1.0	Overhead Pools and Allocation Bases. (Enter for each type of overhead pool one of the Allocation Base Codes A through O or Y, to indicate the basis for allocating such pool of expenses to Government contracts or similar cost objectives, i.e., allocation to these final cost objectives without any intermediate allocations. Enter Code Z in those blocks for types of pools that are not applicable to the reporting unit; however, if you use a single plant-wide pool, Lines (b) through (n) may be left blank.)

Type of Pool	Allocation Base Code
(a) Single, plant-wide pool (If an entry other than "Z" is made here, skip to Item 4.2.0)	[ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART IV - INDIRECT COSTS

Item No.	ITEM DESCRIPTION
4.1.0	Continued

Type of Pool	Allocation Base Code
(b) Manufacturing	[ ]
(c) Engineering	[ ]
(d) Manufacturing and Engineering	[ ]
(e) Tooling	[ ]
(f) Off-site or out-plant (geographical pool)	[ ]
(g) Field service	[ ]
(h) Material handling	[ ]
(i) Departmental/shop	[ ]
(j) Subcontract administration	[ ]
(k) Use and occupancy	[ ]
(l) Quality control	[ ]
(m) Fringe benefits	[ ]
(n) Other pools (Enter Code Y on this line if other pools are used and identify on a continuation sheet each such pool and its Allocation Base Code. If no other pools are used, enter Code Z.)	[ ]

4.2.0 Reporting Unit's G&A Pools and Allocation Bases. (Enter for each type of G&A pool one of the Allocation Base Codes A through O, or Y, listed on Page 14 to indicate the basis for allocating G&A to Government contracts or similar cost objectives, i.e., allocation to these final cost objectives without any intermediate allocations. Enter Code Z in those blocks for types of pools that are not applicable to the reporting unit; however, if an entry other than "Z" is made on Line (a), (b), (c) or (d), Lines (e) through (n) may be left blank.)

Type of Pool	Allocation Base Code
(a) Single G&A pool only	[ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART IV - INDIRECT COSTS

Item No.	ITEM DESCRIPTION
4.2.0	Continued

No Separate G&A Pool	Allocation Base Code
(b) Combined with single, plant-wide overhead pool	[ ]
(c) Combined with manufacturing overhead	[ ]
(d) Combined with engineering overhead	[ ]
More Than One Pool	
(e) General and administrative	[ ]
(f) Commercial - General and administrative	[ ]
(g) Government - General and administrative	[ ]
(h) Selling or marketing expense	[ ]
(i) Independent research and development (IR&D) costs	[ ]
(j) Bidding and proposal (B&P) costs	[ ]
(k) IR&D and B&P costs	[ ]
(l) Spares administration	[ ]
(m) Corporate or home office expense	[ ]
(n) Other pools (Enter Code Y on this line if other pools are used and identify on a continuation sheet each such pool and its Allocation Base Code. If no other pools are used, enter Base Code Z.)	[ ]

4.3.0 Service Centers and Allocation Bases.

Service centers are departments or other functional units which perform specific technical and/or administrative services for the benefit of other units within a reporting unit.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART IV - INDIRECT COSTS

Item No.	ITEM DESCRIPTION
4.3.0	Continued

Category Code

Generally, costs incurred by such centers are, or can be, charged or allocated (i) partially to specific final cost objectives as direct costs and partially to other indirect cost pools (such as a manufacturing overhead pool) for subsequent reallocation to several final cost objectives, referred to herein as Category "A", and (ii) only to several other indirect cost pools (such as manufacturing overhead pool, engineering overhead pool and G&A expense pool) for subsequent reallocation to several final cost objectives, referred to herein as Category "B".

Rate Code

Some service centers may use predetermined billing or costing rates to charge or allocate the costs (Rate Code A) while others may charge or allocate on an actual basis (Rate Code B).

(Enter in Column (1) for each service center, Code A or B to indicate the category of pool. Enter in Column (2) one of the Allocation Base Codes A through O, or Y, listed on Page 14, to indicate the basis of charging or allocating service center costs. Enter in Column (3) Rate Code A or B to describe the costing method used. Enter Code Z in Column (1) only, if any service center is not applicable to the reporting unit.)

Service Center	Category Code (1)	Allocation Base Code (2)	Rate Code (3)
(a) Scientific computer operations	[ ]	[ ]	[ ]
(b) Business data processing	[ ]	[ ]	[ ]
(c) Photography services	[ ]	[ ]	[ ]
(d) Reproduction services	[ ]	[ ]	[ ]
(e) Art services	[ ]	[ ]	[ ]
(f) Technical typing services	[ ]	[ ]	[ ]
(g) Communication services	[ ]	[ ]	[ ]
(h) Facility services (maintenance, etc.)	[ ]	[ ]	[ ]

Item No.	ITEM DESCRIPTION

4.3.0 Continued

Service Center	Category Code (1)	Allocation Base Code (2)	Rate Code (3)
(i) Auto pool services	[ ]	[ ]	[ ]
(j) Company aircraft services	[ ]	[ ]	[ ]
(k) Wind tunnels	[ ]	[ ]	[ ]
(l) Other service centers (Enter Code Y on this line if other service centers are used and identify on a continuation sheet each such service center, its Category Code, Allocation Base Code, and Rate Code. If no other service centers are used, enter Code Z.)	[ ]	[ ]	[ ]

4.4.0 Treatment of Variances from Actual Cost (Underabsorption or Overabsorption). Where predetermined billing or costing rates are used to charge costs of service centers to Government contracts or other indirect cost pools (Rate Code A in Column (3) of Item 4.3.0), variances from actual costs are: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)

A. [ ] Prorated to users on the basis of charges made, at least once annually

B. [ ] All charged or credited to indirect cost pool(s) at least once annually

Y. [ ] Other(s) (Describe on a continuation sheet.)

Z. [ ] Service center is not applicable to reporting unit

4.5.0 Major Types of Indirect Costs. (For each pool coded other than Z in Items 4.1.0, 4.2.0, and 4.3.0, list on a continuation sheet the major functions, activities, and elements of cost included.)

4.6.0 Allocation Base. (For each allocation base code used in Items 4.1.0, 4.2.0 and 4.3.0, describe on a continuation sheet the makeup of the base; for example, if direct labor dollars is used, are overtime premium, fringe benefits, etc., included?)

Item No.	ITEM DESCRIPTION

4.7.0 Application of Overhead and G&A Rates to Specified Transactions or Costs.

This item is directed to ascertaining your practice in special situations where, in lieu of establishing a separate indirect cost pool, allocation is made from an established overhead or G&A pool at less than the normal full rate for that pool. The term "less than full rate" below applies to this type of indirect cost allocation practice. The term does not apply to situations where, as in some cases of off-site activities, etc., a separate indirect cost pool and base are used and the rate of such activities is lower than the "in-house" rate.

(For each of the transactions or costs listed below, enter one of the following codes to indicate your indirect cost allocation practice with respect to that transaction or cost. If Code A, Less than full rate, is entered, describe on a continuation sheet the major types of expenses that are covered by such a rate. If Code B, Full rate, is entered, identify on a continuation sheet the pool(s) reported under Items 4.1.0, 4.2.0 and 4.3.0 which are applicable. If Code C, Combination of A and B, is entered, describe on a continuation sheet the applicable expense and pool data.)

Rate Code

A. Less than full rate

B. Full rate

C. Combination of A and B

D. No overhead or G&A is applied

Z. Transaction or cost is not applicable to reporting unit

Transaction or Cost to Which Indirect Costs May Be Allocated	Rate Code
(a) Subcontract costs	[ ]
(b) Purchased labor	[ ]
(c) Government-furnished materials	[ ]
(d) Interorganizational transfers in	[ ]
(e) Interorganizational transfers out	[ ]
(f) Self-constructed depreciable assets	[ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART IV - INDIRECT COSTS

Item No.	ITEM DESCRIPTION
4.7.0	Continued
	(g) Labor on installation of assets [ ]
	(h) Off-site work [ ]
	(i) Other transactions or costs (Enter Code A on this line if there are other transactions or costs to which less than full rate is applied. List such transactions or costs on a continuation sheet, and for each describe the major types of expenses covered by such a rate. If there are no other such transactions or costs, enter Code Z.) [ ]
4.8.0	Independent Research and Development (IR&D) and Bidding and Proposal (B&P) Costs.
4.8.1	Independent Research and Development. IR&D costs are defined in ASPR 15-205.35 or other pertinent procurement regulations, as revised. The full rate of all allocable manufacturing, engineering, and/or other overhead is applied to IR&D costs as if IR&D projects were under contract, and the "burdened" IR&D costs are: (Check one.)
	A. [ ] Allocated to Government contracts or similar cost objectives as part of the G&A rate
	B. [ ] Allocated as a separate IR&D rate
	C. [ ] Transferred to the corporate or home office level. The corporate or home office level IR&D costs are subsequently allocated back to the reporting unit for allocation as part of the unit's G&A rate
	D. [ ] Treated the same as C above, except that the IR&D costs are allocated as a separate IR&D rate
	Y. [ ] Other (Describe on a continuation sheet.)
	Z. [ ] Not applicable
4.8.2	Bidding and Proposal. B&P costs as defined in ASPR 15-205.3 or other pertinent procurement regulations, as revised, are treated as follows: (Check one.)
	A. [ ] Same as IR&D costs as checked above
	Y. [ ] Other (Describe on a continuation sheet.)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART V - DEPRECIATION AND CAPITALIZATION PRACTICES

Item No.	ITEM DESCRIPTION
5.1.0	Depreciating Tangible Assets for Government Contract Costing. (For each of the asset categories listed on Page 22, enter a code from A through G in Column (1) describing the method of depreciation (Code F for assets that are expensed); a code from A through E in Column (2) describing the basis for determining useful life; a code from A through C in Column (3) describing how depreciation methods or use charges are applied to property units; and a Code A, B or C in Column (4) indicating whether or not residual value is deducted from the total cost of depreciable assets. Enter Code Y in each column of an asset category where another or more than one method applies. Enter Code Z in Column (1) only, if an asset category is not applicable.)

Column (1) - Depreciation Method Code

A. Straight-line
B. Declining balance
C. Sum-of-the-years digits
D. Machine hours
E. Unit of production
F. Expensed at acquisition
G. Use charge
Y. Other or more than one method (Describe on a continuation sheet.)
Z. Asset category is not applicable

Column (2) - Useful Life Code

A. U.S. Treasury Department "guideline lives"
B. Replacement experience
C. Term of Lease
D. Engineering estimate
E. As prescribed for use charge by the Office of Management and Budget Circular No. A-21
Y. Other or more than one method (Describe on a continuation sheet.)

Column (3) - Property Units Code

A. Individual units are accounted for separately
B. Applied to groups of assets with similar service lives
C. Applied to groups of assets with varying service lives
Y. Other or more than one method (Describe on a continuation sheet.)

Column (4) - Residual Value Code

A. Residual value is deducted
B. Residual value is covered by the depreciation method (e.g., declining balance)
C. Residual value is not deducted
Y. Other or more than one method (Describe on a continuation sheet.)

Item No.	ITEM DESCRIPTION

5.1.0 Continued

Asset Category	Depreciation Method Code (1)	Useful Life Code (2)	Property Units Code (3)	Residual Value Code (4)
(a) Land improvements	[ ]	[ ]	[ ]	[ ]
(b) Building	[ ]	[ ]	[ ]	[ ]
(c) Building improvements	[ ]	[ ]	[ ]	[ ]
(d) Leasehold improvements	[ ]	[ ]	[ ]	[ ]
(e) Machinery and equipment	[ ]	[ ]	[ ]	[ ]
(f) Furniture and fixtures	[ ]	[ ]	[ ]	[ ]
(g) Automobiles and trucks	[ ]	[ ]	[ ]	[ ]
(h) Data processing equipment	[ ]	[ ]	[ ]	[ ]
(i) Programming/reprogramming costs	[ ]	[ ]	[ ]	[ ]
(j) Patterns and dies	[ ]	[ ]	[ ]	[ ]
(k) Tools	[ ]	[ ]	[ ]	[ ]
(l) Other depreciable asset categories (Enter Code Y on this line if other asset categories are used and enumerate on a continuation sheet each such asset category and the applicable codes. Otherwise enter Code Z.)	[ ]	[ ]	[ ]	[ ]

Item No.	ITEM DESCRIPTION

5.2.0 Depreciation Practices for Costing, Financial Accounting, and Income Tax. Are depreciation practices the same for costing Government contracts as for financial accounting and income tax? (Check one block on each line. Educational institutions and not-for-profit organizations need not complete this item.)

	A. Yes	B. No
Financial Accounting		
(a) Methods	[ ]	[ ]
(b) Useful lives	[ ]	[ ]
(c) Property units	[ ]	[ ]
(d) Residual values	[ ]	[ ]
Income Tax		
(e) Methods	[ ]	[ ]
(f) Useful lives	[ ]	[ ]
(g) Property units	[ ]	[ ]
(h) Residual values	[ ]	[ ]

5.3.0 Fully Depreciated Assets. Is a usage charge for fully depreciated assets charged to Government contracts? (Check one. If Yes, describe the basis for the charge on a continuation sheet.)

A. [ ] Yes B. [ ] No Z. [ ] Not applicable

5.4.0 Treatment of Gains and Losses on Disposition of Depreciable Property. Gains and losses are: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)

A. [ ] Credited or charged currently to the same overhead or G&A pools to which the depreciation of the assets was charged

B. [ ] Taken into consideration in the depreciation cost basis of the new items, where trade-in is involved

C. [ ] Not accounted for separately, but reflected in the depreciation reserve account.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART V - DEPRECIATION AND CAPITALIZATION PRACTICES

Item No.	ITEM DESCRIPTION
5.4.0	Continued D. [ ] Credited or charged to Other (Miscellaneous) Income and Expense accounts Y. [ ] Other(s) (Describe on a continuation sheet.) Z. [ ] Not applicable
5.5.0	Capitalization or Expensing of Specified Costs. (Check one block on each line to indicate your practices regarding capitalization or expensing of specified costs incurred in connection with capital assets. If the same specified cost is sometimes expensed and sometimes capitalized, check both blocks and describe on a continuation sheet the circumstances when each method is used.)

Cost	A. Expensed	B. Capitalized
(a) Freight-in	[ ]	[ ]
(b) Installation costs	[ ]	[ ]
(c) Sales taxes	[ ]	[ ]
(d) Excise taxes	[ ]	[ ]
(e) Architect-engineer fees	[ ]	[ ]
(f) Overhauls (extraordinary repairs)	[ ]	[ ]
(g) Major modifications or betterments	[ ]	[ ]

5.6.0 Criteria for Capitalization. (Enter (a) the minimum dollar amount of expenditures for acquisition, addition, alteration and improvement of depreciable assets, capitalized, and (b) the minimum number of expected life years of capitalized assets. Use leading zeros for dollar amount, e.g., 0150 for $150.

If more than one dollar amount or number applies, show the information for the majority of your depreciable assets, and enumerate on a continuation sheet the dollar amounts and/or number of years for each category or subcategory of assets involved which differ from those for the majority of assets.)

(a) Minimum dollar amount [ ][ ][ ][ ]

(b) Minimum life years [ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART V - DEPRECIATION AND CAPITALIZATION PRACTICES

Item No.	ITEM DESCRIPTION
5.7.0	Group or Mass Purchase. Are group or mass purchases (initial complement) of similar items, which individually are less than the capitalization amount indicated above, capitalized? (Check one.) A. [ ] Yes B. [ ] No

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VI - OTHER COSTS AND CREDITS

Item No.	ITEM DESCRIPTION
6.1.0	Method of Charging and Crediting Vacation, Holiday and Sick Pay. (Check the appropriate block(s) in each column of Items 6.1.1 and 6.1.2 to indicate the method used to charge, or credit any unused or unpaid, vacation, holiday, or sick pay for direct and indirect labor. If more than one method is checked, explain on a continuation sheet.)
6.1.1	Charges

	Direct Labor (1)	Indirect Labor (2)
A. When accrued (earned)	[ ]	[ ]
B. When taken	[ ]	[ ]
Y. Other(s) (Describe on a continuation sheet.)	[ ]	[ ]

6.1.2	Credits for Unused or Unpaid Vacation, Holiday, or Sick Pay	
	A. Credited to Government contracts at least once annually	[ ] [ ]
	B. Credited to indirect cost pools at least once annually	[ ] [ ]
	C. Credited to Other (Miscellaneous) Income	[ ] [ ]
	D. Not Credited	[ ] [ ]
	Y. Other(s) (Describe on a continuation sheet.)	[ ] [ ]

6.2.0 Supplemental Unemployment (Extended Layoff) Benefit Plans. Costs of such plans are charged to Government contracts: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)

A. [ ] When actual payments are made directly to employees

B. [ ] When accrued (book accrual or funds set aside but no trust fund involved)

C. [ ] When contributions are made to a nonforfeitable trust fund

D. [ ] Not charged

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VI - OTHER COSTS AND CREDITS

Item No.	ITEM DESCRIPTION
6.2.0	Continued

Y. [ ] Other(s) (Describe on a continuation sheet.)

Z. [ ] Not applicable

6.3.0 Severance Pay. Costs of normal turnover severance pay, as defined in ASPR 15-205.39(b)(i) or other pertinent procurement regulations, which are charged directly or indirectly to Government contracts, are based on: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)

A. [ ] Actual payments made

B. [ ] Accrued amounts on the basis of past experience

C. [ ] Not charged

Y. [ ] Other(s) (Describe on a continuation sheet.)

Z. [ ] Not applicable

6.4.0 Incidental Receipts. (Check the appropriate block(s) to indicate the method used to account for receipts from renting real and personal property or selling services when related costs have been charged to Government contracts. If more than one is checked, explain on a continuation sheet.)

A. [ ] The entire amount of the receipt is credited to the same indirect cost pools to which related costs have been charged

B. [ ] The amount of the receipt, less an allowance for profits, is credited to the same indirect cost pools to which related costs have been charged; the profits are credited to Other (Miscellaneous) Income

C. [ ] The entire amount of the receipt is credited directly to Other (Miscellaneous) Income

Y. [ ] Other(s) (Describe on a continuation sheet.)

Z. [ ] Not applicable

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VI - OTHER COSTS AND CREDITS

Item No.	ITEM DESCRIPTION
6.5.0	Proceeds from Employee Welfare Activities. Employee welfare activities include all of those activities set forth in ASPR 15-205.10(a) or other pertinent procurement regulations. (Check the appropriate block(s) to indicate the practice followed in accounting for the proceeds from such activities. If more than one is checked, explain on a continuation sheet.) A. [ ] Proceeds are turned over to an employee-welfare organization or fund; such proceeds are reduced by all applicable costs such as depreciation, heat, light and power B. [ ] Same as above, except the proceeds are not reduced by all applicable costs C. [ ] Proceeds are credited at least once annually to the appropriate indirect cost pools to which costs have been charged D. [ ] Proceeds are credited to Other (Miscellaneous) Income Y. [ ] Other(s) (Describe on a continuation sheet.) Z. [ ] Not applicable

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VII - DEFERRED COMPENSATION AND INSURANCE COSTS

Item No.	ITEM DESCRIPTION
	Instructions for Part VII This part covers pension costs and certain types of deferred incentive compensation and insurance costs. Some organizations may record all of these costs at the corporate or home office level, while others may record them at subordinate organization levels. Still others may record a portion of these costs at the corporate or home office level and the balance at subordinate organization levels. Reporting units, therefore, should obtain the necessary information from the organizational level at which such costs are recorded.
7.1.0	Pension Costs. The actuarial terms used in this item are defined in Opinion Number 8 of the Accounting Principles Board, American Institute of Certified Public Accountants.
7.1.1	Pension Plans Charged to Government Contracts. Does your organization have one or more pension plans whose costs are charged to Government contracts? (Check one.) A. [ ] Yes (If Yes, list each such plan on a continuation sheet. Indicate the approximate number and type of employees covered by each plan and whether the plan is, or is not, qualified under Internal Revenue Service criteria. Complete Items 7.1.2 through 7.1.9 for the three plans covering the greatest number of employees whose pension costs are charged to Government contracts.) B. [ ] No (If No, skip to Item 7.2.0.)
7.1.2	Extent of Funding. (Check one block for each plan. In the event the amount funded for each plan is different from the amount charged on the books of account, describe the difference on a continuation sheet.)

	Plan I	Plan II	Plan III
A. Normal costs only	[ ]	[ ]	[ ]
B. Normal costs plus interest on past or prior service costs	[ ]	[ ]	[ ]
C. Normal costs plus an amortized portion of past or prior service costs	[ ]	[ ]	[ ]
Y. Other (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
Z. Not applicable	[ ]	[ ]	[ ]

Item No.	ITEM DESCRIPTION

7.1.3 Actuarial Cost Method. (Check one block for each plan to show the method used to compute normal and past or prior service costs.)

	Plan I	Plan II	Plan III
A. Accrued benefit cost	[ ]	[ ]	[ ]
B. Aggregate	[ ]	[ ]	[ ]
C. Attained age--initial liability frozen	[ ]	[ ]	[ ]
D. Attained age--initial liability not frozen	[ ]	[ ]	[ ]
E. Entry age--initial liability frozen	[ ]	[ ]	[ ]
F. Entry age--initial liability not frozen	[ ]	[ ]	[ ]
G. Individual level premium	[ ]	[ ]	[ ]
Y. Other (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
Z. Not applicable	[ ]	[ ]	[ ]

7.1.4 Frequency of Actuarial Reevaluations. (Check one block for each plan.)

	Plan I	Plan II	Plan III
A. Annually	[ ]	[ ]	[ ]
B. 2 - 3 years	[ ]	[ ]	[ ]
C. 4 - 5 years	[ ]	[ ]	[ ]
Y. Other (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
Z. Not applicable	[ ]	[ ]	[ ]

Item No.	ITEM DESCRIPTION

7.1.5 Criteria for Changing Actuarial Computations and Assumptions. (Describe on a continuation sheet your criteria for determining when actuarial assumptions and computations for your funded plan(s) are changed.)

7.1.6 Amortization of Past or Prior Service Costs. (Check one block for each plan to show the period over which past or prior service costs are amortized.)

	Plan I	Plan II	Plan III
A. 10 years or less	[ ]	[ ]	[ ]
B. 11 - 20 years	[ ]	[ ]	[ ]
C. 21 - 40 years	[ ]	[ ]	[ ]
Y. More than one amortization schedule (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
Z. Not applicable	[ ]	[ ]	[ ]

7.1.7 Adjustment for Actuarial Gains and Losses. (Check one block for each plan to show the period for which costs are adjusted for actuarial gains and losses. If actuarial losses for a plan are treated differently from actuarial gains, describe the difference on a continuation sheet.)

	Plan I	Plan II	Plan III
A. Adjustment of past service costs	[ ]	[ ]	[ ]
B. Adjustment of current year's costs	[ ]	[ ]	[ ]
C. Adjustment of future years' costs	[ ]	[ ]	[ ]
Y. Other (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
Z. Not applicable	[ ]	[ ]	[ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VII - DEFERRED COMPENSATION AND INSURANCE COSTS

Item No.	ITEM DESCRIPTION
7.1.8	Unrealized Gains and Losses. Do the actuarial gains and losses reported in Item 7.1.7 above include unrealized gains and losses? (Check one block for each plan. If Yes is checked, describe the method of recognition of such gains and losses on a continuation sheet.)

	Plan I	Plan II	Plan III
A. Yes	[ ]	[ ]	[ ]
B. No	[ ]	[ ]	[ ]
Z. Not applicable	[ ]	[ ]	[ ]

7.1.9 Amortization of Actuarial Gains and Losses. (Check one block for each plan to show the period over which actuarial gains and losses are amortized. If the amortization of actuarial losses for a plan is treated differently from the amortization of actuarial gains, describe the difference on a continuation sheet.)

	Plan I	Plan II	Plan III
A. 10 years or less	[ ]	[ ]	[ ]
B. 11 - 20 years	[ ]	[ ]	[ ]
C. More than 20 years	[ ]	[ ]	[ ]
Y. Other (Describe on a continuation sheet.)	[ ]	[ ]	[ ]
Z. Not applicable	[ ]	[ ]	[ ]

7.2.0 Deferred Incentive Compensation Charged to Government Contracts.

7.2.1 Deferred Incentive Compensation. Does your organization award deferred incentive compensation (i.e., profit sharing, stock bonus, etc.) which is charged to Government contracts? (Check one.)

A. [ ] Yes (If Yes is checked, list each plan by name or title on a continuation sheet and show the approximate number and type of employees covered. Complete Items 7.2.2 and 7.2.3 for the three plans covering the greatest number of employees whose deferred incentive compensation cost is charged to Government contracts.)

B. [ ] No (If No is checked, skip to Item 7.3.0.)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VII - DEFERRED COMPENSATION AND INSURANCE COSTS

Item No.	ITEM DESCRIPTION
7.2.2	Qualification of Plan. (Check one block for each plan.)

	Plan I	Plan II	Plan III
A. Qualifies under section 401(a) of the Internal Revenue Code of 1954, as amended	[ ]	[ ]	[ ]
B. Does not qualify under section 401(a) of the Internal Revenue Code of 1954, as amended	[ ]	[ ]	[ ]

7.2.3 Method of Charging Costs to Government Contracts. (Check one block for each plan.)

	Plan I	Plan II	Plan III
A. When accrued	[ ]	[ ]	[ ]
B. When contributions are made to a trust fund	[ ]	[ ]	[ ]
C. When paid directly to employees	[ ]	[ ]	[ ]
D. When other "nonqualified" payments are made	[ ]	[ ]	[ ]
Y. Other or more than one method (Describe on a continuation sheet.)	[ ]	[ ]	[ ]

7.3.0 Employee Group Insurance Charged to Government Contracts. (Includes coverage for life, hospital, surgical, medical, long-term disability, accident, etc.)

7.3.1 Method of Providing Insurance. (Check one.)

A. [ ] All by purchase

B. [ ] All self-insured (If checked, skip to Item 7.4.0.)

C. [ ] Combination of A and B above (Describe on a continuation sheet.)

Z. [ ] Not applicable (If checked, skip to Item 7.5.0.)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VII - DEFERRED COMPENSATION AND INSURANCE COSTS

Item No.	ITEM DESCRIPTION
7.3.2	Type of Purchased Insurance Plans. (Check one.) A. [ ] Retrospective rating (also called experience rating plan or retention plan) B. [ ] Manually rated Y. [ ] Other or more than one type (Describe on a continuation sheet.)
7.3.3	Treatment of Earned Refunds and Dividends from Purchased Insurance Plans. Refunds are also called experience rating credits or retroactive rating credits. All earned refunds and dividends allocable to Government contracts: (Check one.) A. [ ] Are credited directly or indirectly to contracts in the policy year earned, in the same manner as the premiums are charged B. [ ] Are credited directly or indirectly to contracts in the year received in the same manner as the premiums are charged, not necessarily in the year earned C. [ ] Which are estimated to be received in the future are accrued each year, as applicable, to currently reflect the net annual cost of the insurance D. [ ] Or portions thereof are not credited or refunded to the contractor each year and are retained by the carriers as reserves. (If D is checked, describe on a continuation sheet (i) the purposes of the reserves, other than "claims reserves" retained by carriers and (ii) whether such reserves are refundable on call or upon termination of the policies, clauses, or auxiliary agreements which provide for reserve retentions.) Y. [ ] Other or more than one method (Describe on a continuation sheet.)
7.3.4	Employee Contributions (Contributory Purchased Insurance Plans). (Check one.) A. [ ] Plans provide that employees contribute fixed amount, employer is responsible for balance B. [ ] Plans provide for fixed percentage participation by both employer and employee

FORM CASB-DS-1 - 34 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VII - DEFERRED COMPENSATION AND INSURANCE COSTS

Item No.	ITEM DESCRIPTION
7.3.4	Continued Y. [ ] Other or more than one method (Describe on a continuation sheet.) Z. [ ] Not applicable
7.3.5	Employee Sharing in Refunds and Dividends (Contributory Purchased Insurance Plans). (Check one.) A. [ ] Employees do not participate in refunds and dividends unless employer's contribution is less than the refunds and dividends B. [ ] Employees share in refunds and dividends in the same fixed amount or percentage ratio as their contributions to premium costs C. [ ] Employees do not share in refunds and dividends Y. [ ] Other or more than one method (Describe on a continuation sheet.) Z. [ ] Not applicable
7.4.0	Self-Insurance Programs (Employee Group Insurance). Costs of the self-insurance programs are charged to Government contracts: (Check one.) A. [ ] When accrued (book accrual only) B. [ ] When contributions are made to a nonforfeitable fund C. [ ] When contributions are made to a forfeitable fund D. [ ] When the benefits are paid to employees E. [ ] When amounts are paid to an employee welfare plan or union Y. [ ] Other or more than one method (Describe on a continuation sheet.) Z. [ ] Not applicable

FORM CASB-DS-1 - 35 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VII - DEFERRED COMPENSATION AND INSURANCE COSTS

Item No.	ITEM DESCRIPTION
7.5.0	Workmen's Compensation, Liability and Casualty Insurance (Purchased Insurance Only). All allocable earned refunds and dividends under retrospectively rated workmen's compensation and liability insurance policies, and dividends and deposit refunds under casualty insurance policies, are: (Check one.) A. [ ] Credited directly or indirectly to Government contracts in the year earned B. [ ] Credited directly or indirectly to Government contracts in the year received, not necessarily in the year earned C. [ ] Accrued each year, as applicable, to currently reflect the net annual cost of the insurance D. [ ] Not credited or refunded to the contractor but are retained by the carriers as reserves Y. [ ] Other or more than one method (Describe on a continuation sheet.) Z. [ ] Not applicable
7.6.0	Self-Insurance Programs (Workmen's Compensation, Liability and Casualty Insurance)
7.6.1	Workmen's Compensation and Liability. Costs of such self-insurance programs are charged to Government contracts: (Check one.) A. [ ] When claims are paid or losses are incurred (no provision for reserves) B. [ ] When provisions for reserves are recorded based on the present value of the liability C. [ ] When provisions for reserves are recorded based on the full or undiscounted value, as contrasted with present value, of the liability D. [ ] When funds are set aside or contributions are made to a fund Y. [ ] Other or more than one method (Describe on a continuation sheet.) Z. [ ] Not applicable

FORM CASB-DS-1 - 36 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VII - DEFERRED COMPENSATION AND INSURANCE COSTS

Item No.	ITEM DESCRIPTION
7.6.2	Casualty Insurance. Costs of such self-insurance programs are charged to Government contracts: (Check one.) A. [ ] When losses are incurred (no provision for reserves) B. [ ] When provisions for reserves are recorded based on replacement costs C. [ ] When provisions for reserves are recorded based on reproduction cost new less observed depreciation (market value) excluding the value of land and other indestructibles D. [ ] Losses are charged to retained earnings with no charge to contracts (no provision for reserves) Y. [ ] Other or more than one method (Describe on a continuation sheet.) Z. [ ] Not applicable

FORM CASB-DS-1 - 37 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VIII - CORPORATE OR GROUP EXPENSES

Item No.	ITEM DESCRIPTION

FOR CORPORATE (HOME) OFFICE, OR GROUP (INTERMEDIATE MANAGEMENT) OFFICE, AS APPLICABLE (includes home office type operations of joint ventures, partnerships, etc.)

Sales data for this part should cover the most recently completed fiscal year. For a corporate (home) office, such data should cover the entire corporation. For a group office, they should cover the subordinate organizations managed by that group office. "Government Sales" includes sales under both prime contracts and subcontracts.

8.1.0 Annual Total Sales (Government and Commercial). (Check one.)

A. [ ]	Less than $50 million	B. [ ]	$50-$100 million
C. [ ]	$101-$200 million	D. [ ]	$201-$500 million
E. [ ]	$501 million-$1 billion	F. [ ]	Over $1 billion

8.2.0 Approximate Percentage of Government Sales to Annual Total Sales. (Check one.)

A. [ ]	Less than 5%	B. [ ]	5%-10%
C. [ ]	11%-25%	D. [ ]	26%-50%
E. [ ]	51%-80%	F. [ ]	Over 80%

8.3.0 Expenses or Pools of Expenses and Methods of Allocation.

For classification purposes, three methods of allocation are defined: (i) Directly Chargeable--those expenses that are charged to specific corporate segments for centrally performed or purchased services; (ii) Separately Allocated --those individual or groups of expenses which are allocated only to a limited group of corporate segments; and (iii) Overall Allocation--the remaining expenses which are allocated to all or most corporate segments on an overall basis. Corporate segments, as used here, refer to divisions, product departments, plants, or profit centers of a corporation with production and, usually, profit responsibility, reporting to corporate headquarters directly or through intermediate organizations. The term includes Government-owned, contractor-operated (GOCO) plants, foreign operations, subsidiary corporations and joint ventures.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VIII - CORPORATE OR GROUP EXPENSES

Item No.	ITEM DESCRIPTION

Allocation Base Codes

A.	Sales	I.	Machine hours
B.	Cost of sales	J.	Usage
C.	Cost input (direct material, direct labor, other direct costs and applicable overhead)	K.	Unit of product
		L.	Direct material cost
		M.	Total payroll dollars (direct and indirect employees)
D.	Total cost incurred (cost input plus G&A expenses)	N.	Headcount or number of employees (direct and indirect employees)
E.	Prime cost (direct material, direct labor, and other direct costs)	O.	Square feet
		Y.	Other or more than one basis (Describe on a continuation sheet.)
F.	Processing or conversion cost (direct labor and applicable overhead)		
G.	Direct labor dollars		
H.	Direct labor hours		

(Enter the type of expenses or the name of the expense pool(s) and one of the Allocation Base Codes A through O, or Y, to indicate the basis of allocation. Use a continuation sheet if additional space is required.)

	Type of Expenses or Name of Pool of Expenses	Allocation Base Code
8.3.1	Directly Chargeable	
	(a)	[ ]
	(b)	[ ]
	(c)	[ ]
	(d)	[ ]
	(e)	[ ]
8.3.2	Separately Allocated	
	(a)	[ ]
	(b)	[ ]
	(c)	[ ]
	(d)	[ ]
	(e)	[ ]

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	PART VIII - CORPORATE OR GROUP EXPENSES

Item No.	ITEM DESCRIPTION
8.3.3	Overall Allocation (a) [ ] (b) [ ] (c) [ ] (d) [ ] (e) [ ]
8.4.0	Major Types of Expense. (For each pool reported in Items 8.3.1, 8.3.2 and 8.3.3, list on a continuation sheet the major functions, activities, and elements of cost included.)
8.5.0	Allocation Base. (For each Allocation Base used in Items 8.3.2 and 8.3.3, describe on a continuation sheet the makeup of the base; for example, if direct labor dollars is used, are overtime premium, fringe benefits, etc., included?)
8.6.0	Overall Allocation. Are expenses in this category, Item 8.3.3, allocated to all corporate segments? (Check one. If No is checked, list on a continuation sheet the names of excluded corporate segments and the reasons for their exclusion from the allocation.) A. [ ] Yes B. [ ] No
8.7.0	Transfer of Expenses. Are there normally transfers of expenses from corporate segments to corporate or group office? (Check one. If Yes is checked, identify on a continuation sheet the classifications of expense, the names of the corporate segments incurring the expense, and the corporate or group office pools in which the expenses are included.) A. [ ] Yes B. [ ] No
8.8.0	Fixed Management Charges. Are fixed amounts of expenses charged to any corporate segments in lieu of a prorata or allocation basis? (Check one. If Yes is checked, list on a continuation sheet the names of such corporate segments and the basis for making fixed management charges.) A. [ ] Yes B. [ ] No
8.9.0	Government Owned/Contractor Operated (GOCO) Plants. Are corporate or group office expenses allocated to GOCO plants? (Check one. If Yes is checked, describe on a continuation sheet the types of expenses involved and the method of allocation.) A. [ ] Yes B. [ ] No Z. [ ] Not applicable

FORM CASB-DS-1 - 40 -

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91-379	CONTINUATION SHEET Page of Pages

Item No.	ITEM DESCRIPTION

FORM CASB-DS-1

APPENDIX

PRINCIPAL PRODUCT OR SERVICE CODE

(For Item 1.3.0 of the Disclosure Statement)

The following codes and classification descriptions have been selected from the Standard Industrial Classification Manual, 1967, Executive Office of the President (Bureau of the Budget), which is used by U.S. Government agencies to classify establishment data by industry.

For the most part, only those industries which account for a major portion of defense contracting are specifically identified to a significant 4-digit level, that is, a code whose last two digits are each greater than zero. Where the specific industries are not relatively large in defense contracting terms, either a group code (ending in zero) or a major group code (ending in two zeros) is used. An exception to this rule is made when only one specific industry is assignable to a group, e.g., Metal Cases, Code 3411, is used because it is the only industry in Group 3410. One other exception applies to the group code rule: When a specific industry code is used and the group has two or more specific industries, the remaining industry codes within the group are consolidated into a group code ending in zero, e.g., Industrial Gases, is separately identified as Code 2813 and the remaining industries in the group are consolidated into a Group Code 2810 for all other industrial organic and inorganic chemicals.

To obtain the appropriate code for entry in Item 1.3.0 of the Disclosure Statement, each reporting organization should first examine the list of major-group descriptions below to determine which apply to the organization's products or services. Second, the specific codes and descriptions for the major group or groups should be reviewed to select the one code that most nearly identifies the product or service which accounted for most of the organization's sales or shipments in the base fiscal year used for the Disclosure Statement.

If research and development or modification and overhaul is associated with a product, use a specific manufactured product code (Codes 1911 through 3900) rather than a service code. For example, development work associated with aircraft should be coded 3721 (aircraft) rather than 7391 (commercial research and development laboratories).

Following are the major groups whose codes and descriptions are included:

I—Manufactured Products

19 Ordnance and Accessories.
20 Food and Kindred Products.
21 Tobacco Manufactures.
22 Textile Mill Products.
23 Apparel.
24 Lumber and Wood Products except Furniture.
25 Furniture and Fixtures.
26 Paper and Allied Products.
27 Printing, Publishing and Allied Industries.
28 Chemicals and Allied Products.
29 Petroleum Refining.
30 Rubber and Miscellaneous Plastic Products.
31 Leather and Leather Products.
32 Stone, Clay, Glass and Concrete Products.
33 Primary Metal Industries.
34 Fabricated Metal Products, except Ordnance Machinery and Transportation Equipment.
35 Machinery, except Electrical.
36 Electrical Machinery, Equipment and Supplies.
37 Transportation Equipment.
38 Professional, Scientific and Controlling Instruments; Photographic and Optical Goods; Watches and Clocks.
39 Miscellaneous Manufactures.

II—Construction and Services

15 Building Construction.
16 Construction, other than Building Construction.
17 Construction, Special Trade Contractors.
40 Railroad Transportation.
42 Motor Freight Transportation and Warehousing.
44 Water Transportation.
45 Transportation by Air.
47 Transportation Services.
48 Communication.
73 Miscellaneous Business Services.
80 Medical and Other Health Services.
82 Educational Services.

PRINCIPAL PRODUCT OR SERVICE CODE

SECTION I—MANUFACTURED PRODUCTS

Code	*Description*
	19. ORDNANCE AND ACCESSORIES
1911	*Guns, Howitzers, Mortars, and Related Equipment.* Artillery having a bore over 30 mm, or over 1.18 inches, and components.
1925	*Guided Missiles and Space Vehicles.* Completely assembled guided missiles and space vehicles. Excludes guided missile and space vehicle engines and engine parts (Code 3722); ground and airborne guidance, checkout and launch electronic systems and components (Code 3662); and guided missile and space vehicle airframes, nose cones, and space capsules (Code 3729).
1929	*Ammunition, Except for Small Arms.* Ammunition over 30 mm or 1.18 inches, and also bombs, mines, torpedoes, grenades, depth charges, chemical warfare projectiles, and component parts. Excludes explosives (Code 2892).
1931	*Tanks and Tank Components.* Complete tanks and specialized components for tanks. Excludes military vehicles other than tanks (Code 3711) and tank engines (Code 3519).
1941	*Sighting and Fire Control Equipment.* Includes bomb sights, percentage correctors, wind correctors, directors, and sound locators. Excludes computers and computer systems (Code 3573).
1951	*Small Arms.* Small firearms having a bore 30 mm or 1.18 inches and below, and parts for small firearms. Includes certain weapons over 30 mm which are carried and employed by the individual, such as grenade launchers and heavy field machine guns.
1961	*Small Arms Ammunition.* Ammunition for small arms as defined in Code 1951.
1999	*Ordnance and Accessories, Not Elsewhere Classified.* Examples include flame throwers, Y-guns, and smoke generators.
	20. FOOD AND KINDRED PRODUCTS
2000	Foods and beverages for human consumption, and certain related products, such as manufactured ice, chewing gum, and prepared feeds for animals.
	21. TOBACCO MANUFACTURES
2100	Cigarettes, cigars, smoking and chewing tobacco, and snuff.
	22. TEXTILE MILL PRODUCTS
2200	Includes any of the following: (1) Yarn, thread, braids, twine, and cordage; (2) broad woven fabric, narrow woven fabric, knit fabric, and carpets and rugs from yarn; (3) dyeing and finishing fiber, yarn, fabric and knit apparel; (4) coating, waterproofing, or otherwise treating fabric; (5) the integrated manufacture of knit apparel and other finished articles from yarn; and (6) the manufacture of felt goods, lace goods, bonded-fiber fabrics, and miscellaneous textiles.
	23. APPAREL
2300	Clothing and other finished products fabricated by cutting and sewing purchased or government-furnished textile fabrics and related materials, such as leather, rubberized fabrics, plastics, and furs.
	24. LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE
2400	Poles, timber and pulpwood, sawmill and planing mill products, flooring, cooperage, millwork, plywood, prefabricated buildings, and wooden containers.
	25. FURNITURE AND FIXTURES
2500	Household, office, public building and restaurant furniture, and office and store fixtures.
	26. PAPER AND ALLIED PRODUCTS
2600	Pulps from rags and from wood and other cellulose fibers; paper and paperboard including building paper and building board, paper bags, boxes, and envelopes.
	27. PRINTING, PUBLISHING AND ALLIED INDUSTRIES
2700	Printing, such as by letterpress, lithography, gravure or screen; bookbinding, typesetting, engraving, and electrotyping; and newspaper, periodical, and book publishing.
	28. CHEMICALS AND ALLIED PRODUCTS
2813	*Industrial Gases.* Gases in compressed liquid, and solid forms. Excludes fluorine and ammonia (Code 2810).
2810	*Industrial Organic, Inorganic Chemicals, Except Industrial Gases.*
2820	*Plastic Materials and Synthetic Resins, Synthetic Rubber, Synthetic and Other Man-Made Fibers, Except Glass Fibers.*
2830	*Drugs and Pharmaceuticals.*
2840	*Soaps, Detergents, and Cleaning Preparations.*
2850	*Paints, Varnishes, Lacquers, and Enamels.*
2860	*Agricultural Chemicals.* Fertilizers and pesticides.
2892	*Explosives.*
2890	*Chemicals, Not Elsewhere Classified.*
	29. PETROLEUM REFINING
2900	Petroleum, paving and roofing materials (asphalt and tar), and lubricating oils and greases.
	30. RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS
3000	Products from natural, synthetic or reclaimed rubber; and miscellaneous finished plastic products.

31. LEATHER AND LEATHER PRODUCTS

3100 Includes finished leather and artificial leather products, and also the tanning, currying, and finishing of hides and skins.

32. STONE, CLAY, GLASS, AND CONCRETE PRODUCTS

3200 Flat glass and other glass products, cement, structural clay products, pottery, concrete, and gypsum products, cut stone, abrassive and asbestos products.

33. PRIMARY METAL INDUSTRIES

3310 *Products of Blast Furnaces, Steel Works, and Rolling and Finishing Mills.*
3320 *Iron and Steel Foundry Products.*
3330 *Primary Smelting and Refining of Nonferrous Metals.*
3340 *Secondary Smelting and Refining of Nonferrous Metals.*
3350 *Rolling, Drawing, and Extruding of Nonferrous Metals.*
3360 *Nonferrous Foundry Products.*
3390 *Miscellaneous Primary Metal Products.* Iron, steel, and nonferrous forgings, and primary metal products, not elsewhere classified.

34. FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

3411 *Metal cans.*
3420 *Cutlery, Hand Tools and General Hardware.*
3430 *Heating Apparatus (Except Electrical) and Plumbing Fixtures.*
3440 *Fabricated Structural Metal Products.*
3450 *Screw Machine Products and Bolts, Nuts, Screws, Rivets, and Washers.*
3461 *Metal Stampings.*
3470 *Coating, Engraving, and Allied Services.*
3481 *Miscellaneous Fabricated Wire Products.*
3490 *Miscellaneous Fabricated Metal Products.* Barrels, drums, kegs, and pails; safes and vaults; steel springs; valve and pipe fittings, except brass goods and other fabricated metal products, not elsewhere classified.

35. MACHINERY, EXCEPT ELECTRICAL

3510 *Engines and Turbines.* Steam engines; steam, gas, and hydraulic turbines; steam, gas and hydraulic turbine generator set units; and internal combustion engines not elsewhere classified. Excludes aircraft and rocket engines (Code 3722) and automotive engines (Code 3714).
3522 *Farm Machinery and Equipment.*
3531 *Construction Machinery and Equipment.* Includes heavy machinery and equipment, such as bulldozers, concrete mixers, cranes, dredging machinery, pavers and power shovels.
3532 *Mining Machinery and Equipment.*
3533 *Oil Field Machinery and Equipment.*
3534 *Elevators and Moving Stairways.*
3535 *Conveyors and Conveying Equipment.*
3536 *Hoists, Industrial Cranes and Monorail Systems.*
3537 *Industrial Trucks, Tractors, Trailers and Stackers.*
3540 *Metal working Machinery and Equipment.*
3550 *Special Industry Machinery, Except Metalworking.*
3560 *General Industrial Machinery and Equipment.*
3573 *Electronic Computing Equipment.* Includes general purpose electronic analog computers as well as electronic digital computers. The electronic computers may be used for data processing or may be incorporated as components into control equipment for industrial use, and as components of equipment used in weapons and weapons systems, space and oceanographic exploration, transportation and other systems. Electronic computer systems contain high speed arithmetic and program control units, on-line information storage devices and input/output equipment. Examples of input/output equipment are converters (card and/or tape), readers and printers. Examples of storage devices are magnetic drums and disks, magnetic cores, and magnetic film memories.
3570 *Office, Computing and Accounting Machines, Except Electronic Computing Equipment (Code 3573).*
3580 *Service Industry Machines.*
3599 *Miscellaneous Machinery, Except Electrical.*

36. ELECTRICAL MACHINERY, EQUIPMENT AND SUPPLIES

3611 *Electric Measuring Instruments and Test Equipment.* Pocket, portable, panel-board, and graphic recording instruments for measuring electricity, such as voltmeters, ammeters, watt meters, watt-hour meters, demand meters, and other meters and indicating instruments. Also includes analyzers for testing the electrical characteristics of internal combustion engines and radio apparatus.
3612 *Power, Distribution, and Specialty Transformers.* Excludes radio frequency or voice frequency transformers, coils or chokes (Code 3679).
3613 *Switchgear and Switchboard Apparatus.*
3621 *Motors and Generators.* Electric motors (except starting motors) and power generators; motor generators sets; railway motors and control equipment; and motors, generators, and control equipment for gasoline, electric, and oil electric busses and trucks.
3622 *Industrial Controls.* Motor starters and controllers, control accessories, electronic controls and other industrial controls. Excludes automatic temperature controls (Code 3822).
3620 *Electrical Industrial Apparatus, Except Motors and Generators (Code 3621) and Industrial Controls (Code 3622).*
3630 *Household Appliances.*
3640 *Electric Lighting and Wiring Equipment.*
3651 *Radio and Television Receiving Sets, Except Communication Types.* Electronic equipment for home entertainment. Includes public address systems, and music distribution apparatus except records.
3652 *Phonograph Records.*
3661 *Telephone and Telegraph Apparatus.*
3662 *Radio and Television Transmitting, Signaling, and Detection Equipment and Apparatus.* Radio and television broadcasting equipment; electric communication equipment and parts, except telephone and telegraph; electronic field detection apparatus, light and heat emission operating apparatus, object detection apparatus and navigational electronic equipment, and aircraft and missile control systems; and high energy particle accelerator systems and equipment designed and sold as a complete package for radiation therapy, irradiation, radiographic inspection, and research (linear accelerators, betatrons, dynamotrons, Vandergraff generators, resonant transformers, insulating core transformers, etc.); high energy particle electronic equipment and accessories sold separately for the construction of linear accelerators, cyclotrons, synchrotrons, and other high energy research installations (transmitters/modulators, accelerating waveguide structures, pulsed electron guns, vacuum systems, cooling systems, etc.); other electric and electronic communication and signaling products, not elsewhere classified. Excludes transmitting tubes (Code 3673).
3671 *Radio and Television Receiving Type Electron Tubes Except Cathode Ray.*
3672 *Cathode Ray Picture Tubes.*
3673 *Transmitting, Industrial, and Special Purpose Electron Tubes.*
3674 *Semiconductors and Related Devices.* Semiconductor and related solid state devices, such as semiconductor diodes and stacks, including rectifiers, integrated microcircuits (semiconductor networks), transistors, solar cells, and light sensitive semiconductor (solid state) devices.
3679 *Electronic Components and Accessories, Not Elsewhere Classified.* Establishments primarily engaged in manufacturing specialty resistors for electronic end products; inductors, transformers, and capacitors and other electronic components, not elsewhere classified.
3690 *Miscellaneous Electrical Machinery, Equipment, and Supplies.* Includes storage and primary batteries, X-ray apparatus, electrical equipment for internal combustion engines and miscellaneous electrical machinery, equipment and supplies, not elsewhere classified.

37. TRANSPORTATION EQUIPMENT

3711 *Motor Vehicles.* Complete passenger automobiles, trucks, commercial cars and buses, and special purpose motor vehicles.
3714 *Motor Vehicle Parts and Accessories.*
3715 *Truck Trailers (Full).*
3721 *Aircraft.* Complete aircraft. Also includes factory type modification and overhaul of aircraft.
3722 *Aircraft Engines and Engine Parts.*
3723 *Aircraft Propellers and Propeller Parts.*
3729 *Aircraft Parts and Auxiliary Equipment, Not Elsewhere Classified.*
3731 *Ship Building and Repairing.* Ships, barges, and lighters, whether propelled by sail or motor power or towed by other craft. Also includes the conversion and alteration of ships.
3732 *Boat Building and Repairing.*
3740 *Railroad Equipment.*
3750 *Motorcycles, Bicycles and Parts.*
3790 *Miscellaneous Transportation Equipment.*

38. PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKS

3811 *Engineering, Laboratory, and Scientific and Research Instruments and Associated Equipment.* Laboratory, scientific, and engineering instruments such as nautical, navigational, aeronautical, surveying, drafting, and instruments for laboratory work and scientific research (except optical instruments Code 3831).

3821 *Mechanical Measuring and Controlling Instruments, Except Automatic Temperature Controls.*

3822 *Automatic Temperature Controls.* Automatic temperature controls activated by pressure, temperature, level, flow, time, or humidity (including pneumatic controls) of the type principally used as components of air conditioning, refrigeration, and comfort heating, or as components of household appliances. Excludes industrial electric controls (Code 3620).

3831 *Optical Instruments and Lenses.* Optical lenses and prisms, and optical instruments such as microscopes, telescopes, field and opera glasses; and optical measuring and testing instruments such as refractometers, spectrometers, spectroscopes, colorimeters, polariscopes.

3840 *Surgical, Medical, and Dental Instruments and Supplies.*

3851 *Ophthalmic Goods.*

3861 *Photographic Equipment and Supplies.* Photographic apparatus, equipment, parts, attachments, and accessories, such as still and motion picture cameras and projection apparatus; photocopy and microfilm equipment; blueprinting and diazotype (white printing) apparatus and equipment; and other photographic equipment; and sensitized film, paper, cloth, and plates, and prepared photographic chemicals for use therewith.

3871 *Watches, Clocks, Clockwork Operated Devices, and Parts Except Watchcases.* Clocks (including electric) watches, mechanisms for clockwork operated devices, and clock and watch parts.

39. MISCELLANEOUS MANUFACTURERS

3900 Manufacture of products not classified in any other major manufacturing groups, i.e., from Code 1911 through 3871. Includes jewelry, silverware, musical instruments, toys, sporting and athletic goods and other miscellaneous manufactured products.

II.—CONSTRUCTION AND SERVICES

Code *Description*

15. BUILDING CONSTRUCTION—GENERAL CONTRACTORS

1500 Construction of residential, farm, industrial, commercial, public or other buildings.

16. CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION—GENERAL CONTRACTORS

1600 Heavy construction, such as highways and streets, bridges, sewers, railroads, airports, and other types of construction work, except buildings.

17. CONSTRUCTION—SPECIAL TRADE CONTRACTORS

1700 Specialized construction activities, such as plumbing, painting, plastering, carpentering, electrical, etc.

40. RAILROAD TRANSPORTATION

4000 Transportation by line-haul railroad and certain services allied to rail transportation, such as sleeping and dining car services, railway express, and switching and terminal services.

42. MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING

4200 Local or long-distance trucking, transfer, and draying services, or storage of farm products, furniture and other household goods, or commercial goods of any nature. Also includes operation of terminal facilities for handling freight, with or without maintenance facilities.

44. WATER TRANSPORTATION

4463 *Marine Cargo Handling.*—Services directly related to marine cargo handling from the time cargo, for or from a vessel, arrives at shipside, dock, pier, terminal, staging area, or intransit area until cargo loading or unloading operations are completed. Includes the operation and maintenance of piers, docks, and associated buildings and facilities.

4400 *Water Transportation, Except Marine Cargo Handling*—Freight and passenger transportation on the open seas or inland waters, and incidental services such as lighterage, towing, and canal operation. Also includes excursion boats, sightseeing boats, and water taxis.

45. TRANSPORTATION BY AIR

4582 *Airports and Flying Fields*—Operation and maintenance of airports and flying fields and/or the servicing, repairing (except on a factory basis), and storing of aircraft at such airports. Excludes modification and factory type overhaul of aircraft (Code 3721).

4500 *Transportation by Air, Except Airports and Flying Fields.* Domestic and foreign transportation by air and also terminal services.

47. TRANSPORTATION SERVICES

4700 Services incidental to transportation, such as forwarding, packing and crating, and rental of railroad cars.

48. COMMUNICATION

4800 Point-to-point communication service whether by wire or radio, and whether intended to be received aurally or visually; and radio broadcasting and television. Services for the exchange or recording of messages are also included.

73. MISCELLANEOUS BUSINESS SERVICES

7391 *Commercial Research and Development Laboratories.* Research and development activities on a fee or contract basis. Research and development laboratories of companies which manufacture the products developed from their research activities are classified as auxiliary to the manufacturing establishments served.

7392 *Business, Management, Administrative and Consulting Services.* Business and management administrative and consulting services, such as business analyzing business research, efficiency experts, fashion designing and consulting, industrial management, market research, personnel management, public relations counselors, sales engineers, statistical services, tax consultation, and traffic consultants.

7394 *Equipment Rental and Leasing Services.* Includes electronic equipment rental.

7300 Other miscellaneous business services, such as advertising, mailing, stenographic, employment agency, commercial testing and protective services.

80. MEDICAL AND OTHER HEALTH SERVICES

8000 Medical, surgical, and other health service to persons.

82. EDUCATIONAL SERVICES

8221 *Colleges, Universities, and Professional Schools.* Tuition fees at colleges, universities, and professional schools granting academic degrees and requiring for admission at least a high school diploma or equivalent general academic training.

8200 *Other Educational Services.* Excludes services involving colleges, universities, and professional schools and also excludes research and development activities of such institutions (Code 8921).

89. MISCELLANEOUS SERVICES

8911 *Engineering and Architectural Services.* Services of a professional nature in the fields of engineering and architecture.

8921 *Nonprofit Educational and Scientific Research Agencies.* Research at nonprofit establishments including educational institutions.

8900 *Other Miscellaneous Services.*

SUBCHAPTER G—COST ACCOUNTING STANDARDS

PART 400—DEFINITIONS

Sec.
400.1 Definitions.
400.2 Effective date [Reserved]

AUTHORITY: The provisions of this Part 400 are issued under 84 Stat. 796, sec. 103; 50 U.S.C. App. 2168.

§ 400.1 Definitions.

(a) This part defines various terms used in standards promulgated by the Cost Accounting Standards Board. Unless the text of a particular standard demands a different definition or the definition is expressly modified for a particular standard, terms defined herein whenever used in any standard shall have the meanings ascribed to them in this part. For convenience, the definitions of terms which are prominent in an individual standard are reprinted in that standard. The selection or non-selection of a particular definition to be reprinted in an individual standard, however, does not affect the applicability of all definitions in this part to that standard.

Accumulating Costs. The collecting of cost data in an organized manner, such as through a system of accounts.

Actual Costs. Amounts determined on the basis of costs incurred as distinguished from forecasted costs. Includes standard costs properly adjusted for applicable variances.

Allocate. To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

Cost Objective. A function, organizational subdivision, contract or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

Direct Cost. Any cost which is identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor.

Costs identified specifically with a contract are direct costs of that contract. All costs identified specifically with other final cost objectives of the contractor are direct costs of those cost objectives.

Estimating Costs. The process of forecasting a future result in terms of cost, based upon information available at the time.

Final Cost Objective. A cost objective which has allocated to it both direct and indirect costs, and, in the contractor's accumulation system, is one of the final accumulation points.

Indirect Cost. Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

Indirect Cost Pools. Groupings of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

Pricing. The process of establishing the amount or amounts to be paid in return for goods or services.

Proposal. Any offer or other submission used as a basis for pricing a contract, contract modification or termination settlement or for securing payments thereunder.

Reporting Costs. Provision of cost information to others. The reporting of costs involves selecting relevant cost data and presenting it in an intelligible manner for use by the recipient.

§ 400.2 Effective date [Reserved]

PART 401—COST ACCOUNTING STANDARD—CONSISTENCY IN ESTIMATING, ACCUMULATING AND REPORTING COSTS

Sec.
401.10 General applicability.
401.20 Purpose.
401.30 Definitions.
401.40 Fundamental requirement.
401.50 Techniques for application.
401.60 Illustrations.
401.70 Exemptions.
401.80 Effective date.

AUTHORITY: The provisions of this Part 401 are issued under 84 Stat. 796, sec. 103; 50 U.S.C. App. 2168.

§ 401.10 General applicability.

This standard shall be used by defense contractors and subcontractors under Federal contracts entered into after the effective date hereof and by all relevant Federal agencies in estimating, accumulating, and reporting costs in connection with the pricing, administration and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of $100,000, other than contracts or subcontracts where the price negotiated is based on: (a) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation.

§ 401.20 Purpose.

The purpose of this Cost Accounting Standard is to insure that each contractor's practices used in estimating costs for a proposal are consistent with cost accounting practices used by him in accumulating and reporting costs. Consistency in the application of cost accounting practices is necessary to enhance the likelihood that comparable transactions are treated alike. With respect to individual contracts, the consistent application of cost accounting practices will facilitate the preparation of reliable cost estimates used in pricing a proposal and their comparison with the costs of performance of the resulting contract. Such comparisons provide one important basis for financial control over costs during contract performance and aid in establishing accountability for costs in the manner agreed to by both parties at the time of contracting. The comparisons also provide an improved basis for evaluating estimating capabilities.

§ 401.30 Definitions.

(a) The following definitions of terms which are prominent in this standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in subparagraph (b) of this paragraph.

(1) *Accumulating Costs.* The collecting of cost data in an organized manner, such as through a system of accounts.

(2) *Actual Cost.* Amounts determined on the basis of costs incurred as distinguished from forecasted costs. Includes standard costs properly adjusted for applicable variances.

(3) *Estimating Costs.* The process of forecasting a future result in terms of cost, based upon information available at the time.

(4) *Indirect Cost Pools.* Groupings of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objectives.

(5) *Pricing.* The process of establishing the amount or amounts to be paid in return for goods or services.

(6) *Proposal.* Any offer or other submission used as a basis for pricing a contract, contract modification or termination settlement or for securing payments thereunder.

(7) *Reporting Costs.* Provision of cost information to others.

The reporting of costs involves selecting relevant cost data and presenting it in an intelligible manner for use by the recipient.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this standard: None.

§ 401.40 Fundamental requirement.

(a) A contractor's practices used in estimating costs in pricing a proposal shall be consistent with his cost accounting practices used in accumulating and reporting costs.

(b) A contractor's cost accounting practices used in accumulating and reporting actual costs for a contract shall be consistent with his practices used in estimating costs in pricing the related proposal.

(c) The grouping of homogeneous costs in estimates prepared for proposal purposes shall not per se be deemed an inconsistent application of cost accounting practices under paragraphs (a) and (b) of this section when such costs are accumulated and reported in greater detail on an actual cost basis during contract performance.

§ 401.50 Techniques for application.

(a) The standard allows grouping of homogeneous costs in order to cover those cases where it is not practicable to estimate contract costs by individual cost element or function. However, costs estimated for proposal purposes shall be presented in such a manner and in such detail that any significant cost can be compared with the actual cost accumulated and reported therefor. In any event the cost accounting practices used in estimating costs in pricing a proposal and in accumulating and reporting costs on the resulting contract shall be consistent with respect to: (1) The classification of elements or functions of cost as direct or indirect; (2) the indirect cost pools to which each element or function of cost is charged or proposed to be charged; and (3) the methods of allocating indirect costs to the contract.

(b) Adherence to the requirement of § 401.40(a) of this standard shall be determined as of the date of award of the contract, unless the contractor has submitted cost or pricing data pursuant to Public Law 87-653, in which case adherence to the requirement of § 401.40(a) shall be determined as of the date of final agreement on price, as shown on the signed certificate of current cost or pricing data. Notwithstanding § 401.40(b), changes in established cost accounting practices during contract performance may be made when authorized by standards, rules, and regulations issued by the Cost Accounting Standards Board.

§ 401.60 Illustrations.

(a) The following examples are illustrative of applications of cost accounting practices which are deemed to be consistent.

Practices used in estimating costs for proposals	*Practices used in accumulating and reporting costs of contract performance*
1. Contractor estimates an average direct labor rate for manufacturing direct labor by labor category or function.	1. Contractor records manufacturing direct labor based on actual cost for each individual and collects such costs by labor category or function.
2. Contractor estimates an average cost for minor standard hardware items, including nuts, bolts, washers, etc.	2. Contractor records actual cost for minor standard hardware items based upon invoices or material transfer slips.
3. Contractor uses an estimated rate for manufacturing overhead to be applied to an estimated direct labor base. He identifies the items included in his estimate of manufacturing overhead and provides supporting data for the estimated direct labor base.	3. Contractor accounts for manufacturing overhead by individual items of cost which are accumulated in a cost pool allocated to final cost objectives on a direct labor base.

(b) The following examples are illustrative of application of cost accounting practices which are deemed not to be consistent.

Practices used for estimating costs for proposals	*Practices used in accumulating and reporting costs of contract performance*
4. Contractor estimates a total dollar amount for engineering labor which includes disparate and significant elements or functions of engineering labor. Contractor does not provide supporting data reconciling this amount to the estimates for the same engineering labor cost functions for which he will separately account in contract performance.	4. Contractor accounts for engineering labor by cost function, i.e., drafting, designing, production engineering, etc.
5. Contractor estimates engineering labor by cost function, i.e., drafting, production engineering, etc.	5. Contractor accumulates total engineering labor in one undifferentiated account.
6. Contractor estimates a single dollar amount for machining cost to cover labor, material and overhead.	6. Contractor records separately the actual cost of machining labor and material as direct costs, and factory overhead as indirect costs.

§ 401.70 Exemptions.

None for this standard.

§ 401.80 Effective date [Reserved]

PART 402—COST ACCOUNTING STANDARD—CONSISTENCY IN ALLOCATING COSTS INCURRED FOR THE SAME PURPOSE

Sec.
402.10 General applicability.
402.20 Purpose.
402.30 Definitions.
402.40 Fundamental requirement.
402.50 Techniques for application.
402.60 Illustrations.
402.70 Exemptions.
402.80 Effective date.

AUTHORITY: The provisions of this Part 402 are issued under 84 Stat. 796, sec. 103; 50 U.S.C. App. 2168.

§ 402.10 General applicability.

This standard shall be used by defense contractors and subcontractors under Federal contracts entered into after the effective date hereof, and by all relevant Federal agencies in estimating, accumulating and reporting costs in connection with the pricing, administration, and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of $100,000, other than contracts or subcontracts where the price negotiated is based on (a) established catalog or market prices of commerical items sold in substantial quantities to the general public, or (b) prices set by law or regulation.

§ 402.20 Purpose.

The purpose of this standard is to require that each type of cost is allocated only once and on only one basis to any contract or other cost objective. The criteria for determining the allocation of costs to a product, contract, or other cost objective should be the same for all similar objectives. Adherence to these cost accounting concepts is necessary to guard against the overcharging of some cost objectives and to prevent double counting. Double counting occurs most commonly when cost items are allocated directly to a cost objective without eliminating like cost items from indirect cost pools which are allocated to that cost objective.

§ 402.30 Definitions.

(a) The following definitions of terms which are prominent in this standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section.

(1) *Allocate.* To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Cost Objective.* A function, organizational subdivision, contract or other work unit for which cost data are desired and for which provision is made to accumulate and measure the costs of processes, products, jobs, capitalized projects, etc.

(3) *Direct Cost.* Any cost which is identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with a contract are direct costs of that contract. All costs identified specifically with other final cost objectives of the contractor are direct costs of those cost objectives.

(4) *Final Cost Objective.* A cost objective which has allocated to it both direct and indirect costs, and, in the contractor's accumulation system, is one of the final accumulation points.

(5) *Indirect Cost.* Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(6) *Indirect Cost Pools.* Groupings of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this standard: None.

§ 402.40 Fundamental Requirement.

All costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to final cost objectives. No final cost objective shall have allocated to it as an indirect cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included as a direct cost of that or any other final cost objective. Further, no final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any indirect cost pool to be allocated to that or any other final cost objective.

§ 402.50 Techniques for application.

(a) The Fundamental Requirement is stated in terms of cost incurred and is equally applicable to estimates of costs to be incurred as used in contract proposals.

(b) The Disclosure Statement to be submitted by the contractor will require that he set forth his cost accounting practices with regard to the distinction between direct and indirect costs. In addition, for those types of cost which are sometimes accounted for as direct and sometimes accounted for as indirect, the contractor will set forth in his Disclosure Statement the specific criteria and circumstances for making such distinctions. In essence, the Disclosure Statement submitted by the contractor, by distinguishing between direct and indirect costs, and by describing the criteria and circumstances for allocating those items which are sometimes direct and sometimes indirect, will be determinative as to

whether or not costs are incurred for the same purpose. Disclosure Statement as used herein refers to the statement required to be submitted by contractors as a condition of contracting as set forth in Part 351 of this chapter.

(c) In the event that a contractor has not submitted a Disclosure Statement the determination of whether specific costs are directly allocable to contracts shall be based upon the contractor's cost accounting practices used at the time of contract proposal.

(d) Whenever costs which serve the same purpose cannot equitably be indirectly allocated to one or more final cost objectives in accordance with the contractor's disclosed accounting practices, the contractor may either: (1) Use a method for reassigning all such costs which would provide an equitable distribution to all final cost objectives, or (2) directly assign all such costs to final cost objectives with which they are specifically identified. In the event the contractor decides to make a change for either purpose the Disclosure Statement shall be amended to reflect the revised accounting practices involved.

(e) Any direct cost of minor dollar amount may be treated as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives, provided that such treatment produces results which are substantially the same as the results which would have been obtained if such cost had been treated as a direct cost.

§ 402.60 Illustrations.

(a) Illustrations of costs which are incurred for the same purpose:

(1) Contractor normally allocates all travel as an indirect cost and previously disclosed this accounting practice to the Government. For purposes of a new proposal, contractor intends to allocate the travel costs of personnel whose time is accounted for as direct labor directly to the contract. Since travel costs of personnel whose time is accounted for as direct labor working on other contracts are costs which are incurred for the same purpose, these costs may no longer be included within indirect cost pools for purposes of allocation to any covered Government contract. Contractor's Disclosure Statement must be amended for the proposed changes in accounting practices.

(2) Contractor normally allocates planning costs indirectly and allocates this cost to all contracts on the basis of direct labor. A proposal for a new contract requires a disproportionate amount of planning costs. The contractor prefers to continue to allocate planning costs indirectly. In order to equitably allocate the total planning costs, the contractor may use a method for allocating all such costs which would provide an equitable distribution to all final cost objectives. For example, he may use the number of planning documents processed rather than his former allocation base of direct labor. Contractor's Disclosure Statement must be amended for the proposed changes in accounting practices.

(b) Illustrations of costs which are not incurred for the same purpose:

(1) Contractor normally allocates special tooling costs directly to contracts. The costs of general purpose tooling are normally included in the indirect cost pool which is allocated to contracts. Both of these accounting practices were previously disclosed to the Government. Since both types of costs involved were not incurred for the same purpose in accordance with the criteria set forth in the contractor's Disclosure Statement, the allocation of general purpose tooling costs from the indirect cost pool to the contract, in addition to the directly allocated special tooling costs is not considered a violation of the standard.

(2) Contractor proposes to perform a contract which will require three firemen on 24-hour duty at a fixed-post to provide protection against damage to highly inflammable materials used on the contract. Contractor presently has a fire fighting force of 10 employees for general protection of the plant. Contractor's costs for these latter firemen are treated as indirect costs and allocated to all contracts; however, he wants to allocate the three fixed-post firemen directly to the particular contract requiring them and also allocate a portion of the cost of the general firefighting force to the same contract. He may do so but only on condition that his disclosed practices indicate that the costs of the separate classes of firemen serve different purposes and that it is his practice to allocate the general firefighting force indirectly and to allocate fixed-post firemen directly.

§ 402.70 Exemption.

None for this standard.

§ 402.80 Effective date [Reserved]

Effective date. Unless a different date is established in connection with a specific part or section, the regulations promulgated herein shall be effective July 1, 1972.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.72-3001 Filed 2-28-72;8:54 am]

Title 7—AGRICULTURE

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

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to the statutory authorities cited below, the fees relating to inspection are hereby amended to reflect increases in Federal employees' salaries authorized by the Economic Stabilization Act Amendments of 1971, Public Law 92-210, Executive Order 11637, approved January 9, 1972, and to raise laboratory testing fees to a level that will more adequately cover the cost of the service provided.

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 54—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF AND UNITED STATES SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

Paragraphs (d) and (e) of § 54.101 are revised to read as follows:

§ 54.101 On a fee basis.

* * * * *

(d) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $9.28 for base time and $9.28 for overtime or holiday work.

(e) Charges for any laboratory analysis or laboratory examination of rabbits under this part related to the inspection service shall be $12.84 per hour.

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF AND U.S. CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

Section 70.131(d) is revised to read as follows:

§ 70.131 On a fee basis.

* * * * *

(d) The charges for inspection services will be based on the time required to perform such services. The hourly rate shall be $9.28 for base time and $9.28 for overtime and holiday work.

Section 70.133 is revised to read as follows:

§ 70.133 Laboratory analysis.

(a) Fees and charges for any laboratory analysis or examination, performed by the Poultry Division in connection with grading of poultry or poultry products, or inspection of egg products, made under this part shall be assessed and collected in accordance with the provisions for fees and charges for such services as contained in Part 55 of this chapter.

(b) Charges for any laboratory analysis or laboratory examination, performed by the Meat and Poultry Inspection Program, in connection with inspection of poultry or poultry products under this part shall be $12.84 per hour.

(60 Stat. 1090, as amended; 7 U.S.C. 1624)

SUBCHAPTER D—REGULATIONS UNDER THE POULTRY PRODUCTS INSPECTION ACT

PART 81—INSPECTION OF POULTRY AND POULTRY PRODUCTS

Section 81.170 is revised to read as follows:

§ 81.170 **Overtime inspection service.**

When operations in an official establishment require the services of inspection personnel beyond their regularly assigned tour of duty on any day, or on a day outside the established schedule, such services are considered as overtime work. The official establishment shall give reasonable advance notice to the inspector in charge for any overtime service necessary and shall pay the Secretary for such overtime at the rate of $9.28 per hour to cover the cost thereof.

Section 81.171(a) is revised to read as follows:

§ 81.171 **Holiday inspection service.**

(a) When an official establishment requires inspection service on a holiday, such service is considered holiday work. The official establishment shall, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and shall pay the Secretary therefor at the rate of $9.28 per hour. Service in excess of 8 hours for that day is considered overtime and shall be paid for at the overtime rate.

* * * * *

Section 81.172 is revised to read as follows:

§ 81.172 **Supervisor overtime or holiday service.**

When, because an establishment requires overtime service as provided in § 81.170 or requires holiday service as provided in § 81.171, a station supervisor (veterinarian) is required to work overtime or on a holiday, in the establishment, in order to supervise the service or to make final condemnation, the establishment shall pay the Secretary for such overtime or holiday work at the rate of $9.28 per hour.

(71 Stat. 441, as amended; 21 U.S.C. 451 et seq.)

It has been determined that in order to cover these increased costs of the service, the hourly fee charges in connection with the performance of the services must be increased as soon as practicable as provided for herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Consumer and Marketing Service. Therefore, under 5 U.S.C. 553, it is found that notices and other public procedure with respect to this amendment are impracticable and unnecessary and good cause is found for making the amendment effective less than 30 days after its publication in the FEDERAL REGISTER.

The amendment shall become effective on March 5, 1972.

Done at Washington, D.C., on February 24, 1972.

KENNETH M. MCENROE,
Deputy Administrator, Meat and Poultry Inspection Program.

[FR Doc.72-2986 Filed 2-28-72;8:48 am]

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

[Milk Orders 1, 2; Dockets Nos. AO-14-A51, AO-71-A64]

PART 1001—MILK IN BOSTON REGIONAL MARKETING AREA

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

Order Amending Orders

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

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

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

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective not later than March 1, 1972. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued January 20, 1972, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued February 9, 1972. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders effective March 1, 1972, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

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

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

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

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Boston Regional and New York-New Jersey marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

1. In § 1001.65, paragraph (c) is revised as follows:

§ 1001.65 **Basic blended price.**

* * * * *

(c) Subtract for each of the months of March, April, May, and June an amount computed by multiplying the total hundredweight of pool milk included in these computations by 20 cents in March, 30 cents in April, and 40 cents in May and June.

* * * * *

2. In § 1002.71, paragraph (c) is revised as follows:

§ 1002.71 **Computation of the uniform price.**

* * * * *

(c) Subtract for each of the months of March, April, May, and June an

amount computed by multiplying the total hundredweight of pool milk for the month by 20 cents in March, 30 cents in April, and 40 cents in May and June;

* * * * *

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

Effective date: March 1, 1972.

Signed at Washington, D.C., on February 23, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-2988 Filed 2-28-72;8:48 am]

[Milk Order 67, 68; Docket Nos. AO-367-A4, AO-178-A27]

PART 1061—MILK IN SOUTHEASTERN MINNESOTA-NORTHERN IOWA (DAIRYLAND) MARKETING AREAS

PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

Order Amending Orders

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

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

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the orders effective not later than March 1, 1972. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the respective marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued January 20, 1972, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued February 11, 1972. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the orders effective March 1, 1972, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

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

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

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

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Southeastern Minnesota-Northern Iowa (Dairyland) and Minneapolis-St. Paul marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

In § 1061.11, paragraph (a) (1) and (2) and the introductory text of paragraph (b) are revised as follows:

§ 1061.11 Pool plant.

* * * * *

(a) * * *

(1) Not less than 10 percent of such receipts is disposed of from such plant as Class I milk in the marketing area as route disposition. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants; and

(2) Not less than 30 percent during the months of February–August and 40 percent during the months of September–January of such receipts is disposed of as Class I milk as route disposition. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(b) A supply plant from which not less than 30 percent of its total Grade A milk receipts from dairy farmers during the month is delivered as fluid milk products to pool plants pursuant to paragraph (a) of this section subject to subparagraphs (1) and (2) of this paragraph:

* * * * *

1. In § 1068.9, paragraph (c) is revised as follows:

§ 1068.9 Pool plant.

* * * * *

(c) Upon written request by the handler to the market administrator, received or postmarked on or before the last day of any month, any plant qualified as a pool plant pursuant to paragraph (b) of this section may be withdrawn from pool plant status beginning with the next month. Any such plant withdrawn from automatic pool plant status may not regain such status prior to the next September 1 and then only by meeting the requirements set forth in the first proviso of paragraph (b) of this section in the same manner as a plant qualifying for pool plant status for the first time.

2. Section 1068.11 is revised as follows:

§ 1068.11 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant as producer milk directly from the farm; or diverted from a pool plant to a nonpool plant subject to the rules in § 1068.12. "Producer" shall not include the milk of any person produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and the handler diverting such milk and the operator of the pool plant have each requested Class II classification on the reports filed with their respective market administrators. Neither shall it include the milk of any person produced by him which is diverted to an other order plant if such person is designated as a producer with respect to such milk under the other order.

3. Section 1068.12 is revised as follows:

§ 1068.12 Producer milk.

"Producer milk" means the skim milk and butterfat in Grade A milk:

(a) Received at a pool plant directly from a dairy farmer; and

(b) Diverted from a pool plant to a nonpool plant (except a producer handler plant or an other order plant) subject to the following conditions:

(1) Such milk shall be priced at the location of the nonpool plant to which diverted;

(2) In any month that less than 6 days' production of a producer is delivered to pool plants the quantity of milk of the producer diverted during the month that exceeds that delivered to pool plants shall not be producer milk;

(3) During the months of September through November, a cooperative association handler may divert for his account the milk of any member producer. The total quantity of producer milk diverted by such handler in excess of 10 percent of the milk received from member producers at pool plants during the month shall not be producer milk;

(4) During the months of December through August, a cooperative association handler may divert for his account the milk of any member producer. The total quantity of producer milk diverted by such handler in excess of 25 percent of the milk received from member producers at pool plants during the month shall not be producer milk;

(5) During the months of September through November, the operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association. The total quantity of producer milk diverted by such handler in excess of 10 percent of the milk received at such pool plant during the month from producers who are not members of a cooperative association shall not be producer milk;

(6) During the months of December through August, the operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association. The total quantity of producer milk diverted by such handler in excess of 25 percent of the milk received at such pool plant during the month from producers who are not members of a cooperative association shall not be producer milk; and

(7) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (3), (4), (5), and (6) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

4. In § 1068.13, a new paragraph (a–1) is added as follows:

§ 1068.13 Handler.

* * * * *

(a–1) Any cooperative association with respect to milk of its members diverted for its account from a pool plant to a nonpool plant subject to the provisions of § 1068.12.

* * * * *

5. In § 1068.30, paragraph (a)(1) is revised and a new paragraph (d) is added as follows:

§ 1068.30 Monthly reports of receipts and utilization.

(a) * * *

(1) The quantities of skim milk and the quantities of butterfat contained in milk received from producers (including diverted milk, and such handler's own production) producer-handlers' and other pool plants.

* * * * *

(d) On or before the 10th day of each month and in detail as prescribed by the market administrator each handler specified in § 1068.13(a–1) shall report to the market administrator for the preceding month the utilization of all skim milk and butterfat in diverted producer milk pursuant to § 1068.12.

6. In paragraph (b)(5) of § 1068.41, a new subdivision (vii) is added as follows:

§ 1068.41 Classes of utilization.

* * * * *

(b) * * *

(5) * * *

(vii) 1.5 percent of producer milk diverted to a nonpool plant pursuant to § 1068.12 except that if the operator of the nonpool plant to which the milk is diverted accounts for such milk on the basis of farm weights, the applicable percentage shall be 2 percent; and

* * * * *

7. Section 1068.44 is revised as follows:

§ 1068.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

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

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1068.46(a)(7) and the corresponding step of § 1068.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1068.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1068.46(a)(6) or (7) and the corresponding steps of § 1068.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

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

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1068.30 for the month within which such transaction occurred;

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

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

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

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

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

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

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

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in

subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1068.41.

8. In § 1068.46(a), subparagraphs (1), (4), (5), and (6) are revised as follows:

§ 1068.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

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

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

(ii) From Class II the pounds of skim milk classified as Class II milk pursuant to § 1068.41(b)(5);

* * * * *

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

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraph (1)(i) of this paragraph;

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

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from a cooperative association as a handler pursuant to the proviso of § 1068.13(a), receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Add to the remaining pounds of skim milk the pounds subtracted pursuant to subparagraph (1)(ii) of this paragraph;

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

* * * * *

9. Section 1068.55 is revised as follows:

§ 1068.55 Location adjustments to handlers.

The Class I price for producer milk and other source milk (for which a location adjustment is applicable) received at a plant located at least 35 miles (as determined by the market administrator) from the Minnesota Transfer Viaduct at University Avenue in St. Paul, Minn., shall be reduced by an amount indicated below.

Plant location (miles)	*Amount of deduction (cents)*
Less than 35	0
35 but less than 45	6

For distances of 45 miles or more, an additional 1.5 cents for each 10 miles or fraction thereof beyond 45 miles.

9a. In § 1068.62, paragraph (a) is revised as follows:

§ 1068.62 Milk under more than one Federal order.

* * * * *

(a) The Secretary determines that a greater quantity of milk in fluid form is disposed of from such plant to a regulated marketing area as defined in another order issued pursuant to the Act either on routes or to pool plants qualified on the basis of route disposition than is disposed of from such plant in the Minneapolis-St. Paul marketing area either on routes or to pool plants qualified on the basis of route disposition.

* * * * *

10. In § 1068.64, subdivision (i) of paragraph (a)(1) and paragraph (b)(2) are revised as follows:

§ 1068.64 Obligations of handlers operating a partially regulated distributing plant.

* * * * *

(a) * * *

(1)(i) The obligation that would have been computed pursuant to § 1068.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1068.70(d) and a credit in the amount specified in § 1068.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

* * * * *

(b) * * *

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

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

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

* * * * *

11. In § 1068.70, paragraph (d) is revised as follows:

§ 1068.70 Computation of the net pool obligation of each pool handler.

* * * * *

(d) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received of the skim milk and butterfat subtracted from Class I pursuant to § 1068.46(a)(6) and the corresponding step of § 1068.46(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

12. In § 1068.71, paragraph (a) is revised as follows:

§ 1068.71 Computation of uniform price.

* * * * *

(a) Combine into one total the values computed pursuant to § 1068.70 for all handlers who filed reports pursuant to

§ 1068.30 for the month and who made the payments pursuant to § 1068.84 for the preceding month;

* * * * *

13. Section 1068.82 is revised as follows:

§ 1068.82 Location adjustments to producers and on nonpool milk.

(a) In making payments pursuant to § 1068.80 (b) and (c) for milk received at a pool plant located 35 miles or more from the Minnesota Transfer Viaduct at University Avenue in St. Paul, Minn., each handler shall deduct from the applicable price payable to such producers an amount in accordance with the location of the plant based on the rates set forth in § 1068.55; and

(b) For the purpose of computations pursuant to §§ 1068.84 and 1068.85, the uniform price shall be adjusted at the rates set forth in § 1068.55 applicable at the location of the nonpool plant from which the milk was received, except that the uniform price shall not be less than the Class II price.

14. Section 1068.90 is revised as follows:

§ 1068.90 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production); (b) other source milk allocated to Class I pursuant to § 1068.46(a)(3) and (6) and the corresponding steps of § 1068.46(b) except such other source milk on which no handler obligation applies pursuant to § 1068.70(d); and (c) Class I route disposition in the marketing area by partially regulated distributing plants that exceeds the Class I milk:

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

(2) Specified in § 1068.64(b)(2)(ii).

15. Section 1068.92 is revised as follows:

§ 1068.92 Adjustment of overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1068.64, and 1068.84, and 1068.86(a), for which remittance has not been made by the close of business on the next day following the date specified for such payment shall be increased three-fourths of 1 percent for each month and any remaining amount due shall be increased at a similar rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously made pursuant to this section; and for the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

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

Effective date: March 1, 1972.

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

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-2987 Filed 2-28-72;8:48 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service, Department of Agriculture

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to the statutory authorities cited below, the fees relating to inspection are hereby amended to reflect increases in Federal employees salaries authorized by the Economic Stabilization Act Amendments of 1971, Public Law 92–210, and Executive Order 11637, approved January 9, 1972, and to raise laboratory testing fees to a level that will more adequately cover the cost of the service provided.

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

PART 307—FACILITIES FOR INSPECTION

Section 307.6(a) is revised to read as follows:

§ 307.6 Overtime work of Program inspectors.

(a) The management of an official establishment, an importer, or an exporter desiring to work under conditions which will require the services of a Program inspector on any Saturday, Sunday, or holiday, or for more than 8 hours on any other day, shall, sufficiently in advance of the period of overtime, request the Program inspector to furnish inspection service during such overtime period, and shall pay the Administrator therefor $9.28 per hour per Program inspector to reimburse the Program for the cost of the inspection services so furnished.

* * * * *

(81 Stat. 584; 46 Stat. 689; 19 U.S.C. 1306; 21 U.S.C. 621)

SUBCHAPTER B—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

Section 350.7(c) is revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of $9.28 per hour for base time, $9.28 per hour for overtime including Saturdays, Sundays, and holidays, and $12.84 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include but will not be limited to the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative work week.

* * * * *

(Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624)

PART 355—CERTIFIED PRODUCTS FOR DOGS, CATS, AND OTHER CARNIVORA: INSPECTION, CERTIFICATION, AND IDENTIFICATION AS TO CLASS, QUALITY, QUANTITY, AND CONDITION

Section 355.12 is revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged as collected by the Administrator shall be $9.28 per hour for base time, $9.28 per hour for overtime including Saturdays, Sundays, and holidays, and $12.84 per hour for laboratory service to reimburse the Service for the cost of the inspection services so furnished.

(Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624)

It has been determined that in order to cover these increased costs of the service, the hourly fee charges in connection with the performance of the services must increased as soon as practicable as provided for herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Consumer and marketing Service. Therefore, under 5 U.S.C. 553, it is found that notices and other public procedure with respect to this amendment are impracticable and unnecessary and good cause is found for making the amendment effective less than 30 days after its publication in the FEDERAL REGISTER.

The amendments shall become effective on March 5, 1972.

Done at Washington, D.C., on February 24, 1972.

KENNETH M. MCENROE,
Deputy Administrator, Meat and Poultry Inspection Program.

[FR Doc.72-2985 Filed 2-28-72;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-CE-8-AD; Amdt. 39-1397]

PART 39—AIRWORTHINESS DIRECTIVES

Gates Learjet Model 23 Airplanes

There have been fatigue failures of the flap actuator rod ends on Gates Learjet Model 23 airplanes. Failure of the rod end will result in immediate symmetrical flap retraction.

Since the condition described herein is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued requiring replacement of the flap actuator rod ends on these model airplanes. In addition, the type design data and the airplane service manual are being revised to specify a mandatory retirement life at 2,500 hours for this part. Gates Learjet Service Bulletin No. 23-231 dated February 17, 1972, pertains to the subject matter of this AD.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new AD.

GATES LEARJET. Applies to Model 23 airplanes, Serial No. 23-003 through 23-089, except those airplanes which have been modified to incorporate the Gates Learjet Model 24 Flap System.

Compliance: Required as indicated, unless already accomplished.

To prevent loss of flaps:

(1) Within 25 hours' time in service after the effective date of this AD on those airplanes with 4,000 or more hours in service,

(2) Within 150 hours' time in service after the effective date of this AD, but no later than 4,025 hours' total airplane time, whichever occurs first, on those airplanes having between 3,851 and 3,999 hours' time in service, and

(3) Within the next 150 hours' time in service after the effective date of this AD on those airplanes having between 2,350 and 3,850 hours' time in service, accomplish the following:

Replace the flap actuator rod end with a new part in accordance with Gates Learjet Service Bulletin 23-231, dated February 17, 1972, or any equivalent part approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE: The type design data and the airplane service manual are being revised to specify a mandatory retirement life of 2,500 hours for the flap actuator rod end for applicable aircraft.

This amendment becomes effective February 29, 1972.

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

Issued in Kansas City, Mo., on February 18, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-2972 Filed 2-28-72;8:46 am]

[Airworthiness Docket No. 69-WE-7-AD, Amdt. 39-1396]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-3, DC-3A, DC-3C, and DC-3D Series Airplanes

Amendment 39-799 (34 F.R. 12159), AD 69-15-4, as amended, requires periodic inspections and repair of the wing center section in the area between stations 94.250 and 127.750, left and right sides, and from the lower front spar cap aft to the lower center spar on all Douglas Model DC-3, DC-3A, DC-3C, DC-3D, series aircraft. After issuing Amendment 39-799, the agency became aware that certain DC-3 type aircraft, which had cracks in the vicinity of stations 94.250 and 127.750, were previously repaired by installing a steel doubler instead of the aluminum doubler specified in Douglas Service Bulletin 229. The steel doubler, if not removed prior to performing the X-ray inspection per the AD, precludes compliance with that portion of AD 69-15-4. Periodic removal and installation of the steel doubler could subsequently result in a deleterious effect on the structural integrity of the wing. Therefore, the AD is being amended to require that the steel doubler be removed prior to the X-ray inspection and replaced with an aluminum doubler in accordance with Douglas Service Bulletin 263.

Since this amendment provides a clarification only, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations, Amendment 39-799 (34 F.R. 12159), AD 69-15-4, is further amended by adding, after the second sentence of paragraph (a) ending in "Chief, Aircraft Engineering Division," etc., the following:

On aircraft which have steel doublers installed in lieu of the aluminum doublers specified in Douglas Service Bulletin 229 and/or 263, or later FAA-approved revisions, remove the steel doublers prior to accomplishing the X-ray inspection. Steel doublers must be replaced with aluminum doublers in accordance with Douglas Service Bulletin 263.

This amendment becomes effective February 29, 1972.

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

Issued in Los Angeles, Calif., on February 16, 1972.

ROBERT Q. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.72-2971 Filed 2-28-72;8:46 am]

[Airspace Docket No. 71-SW-73]

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

Alteration and Revocation of Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Dallas-Fort Worth, Tex., transition area and revoke the Bridgeport, Tex., transition area.

On January 8, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 286) stating the Federal Aviation Administration proposed to alter controlled airspace in the vicinity of Bridgeport, Tex.

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

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

In § 71.181 (37 F.R. 2143), the Dallas-Forth Worth, Tex., transition area is amended by deleting "to longitude 97°28'00" W.; thence N. to point of beginning." and substituting therefor "to latitude 32°55'00" N.; to latitude 33°13'00" N., longitude 97°56'00" W.; to latitude 33°15'30" N.; longitude 97°49'00" W.; to point of beginning."

In § 71.181 (37 F.R. 2143), the Bridgeport, Tex., transition area is revoked.

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

Issued in Fort Worth, Tex., on February 18, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-2975 Filed 2-28-72;8:47 am]

[Airspace Docket No. 71-SW-72]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a 700-foot transition area at Mineola, Tex.

On January 5, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 91) stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Mineola, Tex.

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

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

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

MINEOLA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Wisener Airport (latitude 32°40'47" N., longitude 95°30'45" W.) and within 2 miles each side of the Quitman, Tex., VORTAC 211° radial extending from the airport to 6 miles northeast of the airport.

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

Issued in Fort Worth, Tex., on February 18, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-2974 Filed 2-28-72;8:47 am]

[Airspace Docket No. 72-SW-3]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Editorial Change to Federal Airways, Reporting Points, Jet Routes and Area High Routes

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations is to make an editorial change of the name Ponca City, Okla., to Pioneer, Okla, wherever it appears in these parts.

A policy to eliminate the duplication of names for air navigation aids has been adopted by the Federal Aviation Administration. Therefore, action is taken herein to change the name of Ponca City, Okla., to Pioneer, Okla., in compliance with that policy.

Since these amendments are minor in nature, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 and Part 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., May 25, 1972, as hereinafter set forth.

1. Section 71.123 (37 F.R. 2009) is amended as follows:

a. In V-74 "Ponca City, Okla." is deleted wherever it appears and "Pioneer, Okla." is substituted therefor.

b. In V-77 "Ponca City, Okla." is deleted wherever it appears and "Pioneer, Okla." is substituted therefor.

c. In V-190 "Ponca City, Okla." is deleted wherever it appears and "Pioneer, Okla." is substituted therefor.

d. In V-516 "Ponca City, Okla." is deleted and "Pioneer, Okla." is substituted therefor.

2. In § 71.203 (37 F.R. 2311) Ponca City, Okla." is deleted and "Pioneer, Okla." is substituted therefor.

3. Section 75.100 (37 F.R. 2382) is amended as follows:

In J-23 "Ponca City, Okla." is deleted and "Pioneer, Okla." is substituted therefor.

4. Section 75.400 (37 F.R. 2400) is amended as follows:

In J982R "Wichita, Kans. 37 43 40/97 27 11 Ponca City, Okla." is deleted and "Wichita, Kans. 37 43 40/97 27 11 Pioneer, Okla." is substituted therefor.

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

Issued in Washington, D.C., on February 22, 1972.

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

[FR Doc.72-2973 Filed 2-28-72;8:46 am]

[Airspace Docket No. 72-WA-5]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Jet Route Segments

The purpose of these amendments to Part 75 of the Federal Aviation Regulations is to designate Jet Route Nos. 587 and 588 between Sault Ste. Marie, Mich., and the United States/Canadian Border.

The Canadian Ministry of Transport has advised that there is a need for the designation of Jet Route No. 587 from Kleinburg, Ontario, Canada, to Sault Ste. Marie, Mich., and Jet Route No. 588 from Sault Ste. Marie, Mich., to Stirling, Ontario, Canada, for the movement of transborder air traffic between these points.

Accordingly, action is taken herein to designate these requested Jet Route segments.

Since these amendments are minor in nature and no substantive change in the regulation is effected, 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., April 27, 1972, as hereinafter set forth.

Section 75.100 (37 F.R. 2382) is amended by adding the following:

a. Jet Route No. 587 (Kleinburg, Ontario, Canada, to Sault Ste. Marie, Mich.) (Joins Canadian High Level Airway No. 587) From Kleinburg, Ontario, Canada, via INT Kleinburg 325° and Sault Ste. Marie, Mich., 110° radials; to Sault Ste. Marie, Mich., excluding the portion within Canada.

b. Jet Route No. 588 (Sault Ste. Marie, Mich., to Stirling, Ontario, Canada) (Joins Canadian High Level Airway No. 588). From Sault Ste. Marie, Mich., via INT Sault Ste. Marie 110° and Stirling, Ontario, Canada, 297° radials; to Stirling, excluding the portion within Canada.

(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 February 22, 1972.

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

[FR Doc.72-2976 Filed 2-28-72;8:47 am]

[Docket No. 11740, Amdt. No. 797]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

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

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective March 23, 1972.

Ainsworth, Nebr.—Ainsworth Municipal Airport; VOR-A, Amdt. 1; Revised.
Auburn, Ind.—Auburn-De Kalb Airport; VOR-A, Amdt. 3; Revised.

Auburn, Ind.—Auburn-De Kalb Airport; VOR Runway 9, Amdt. 2; Revised.
Ely, Nev.—Ely-Yelland Field; VOR-A, Amdt. 1; Revised.
Indianapolis, Ind.—Indianapolis Brookside Airpark; VOR Runway 36, Amdt. 1; Revised.
Kingman, Ariz.—Kingman Municipal Airport; VOR Runway 21, Amdt. 1; Revised.
Lufkin, Tex.—Angelina County Airport; VOR Runway 33, Amdt. 10; Revised.

2. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective March 23, 1972.

Montgomery, Ala.—Dannelly Field; Radar-1, Amdt. 5; Revised.

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

Issued in Washington, D.C., on February 16, 1972.

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

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

[FR Doc.72-2868 Filed 2-28-72;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8846]

PART 13—PROHIBITED TRADE PRACTICES

Kustom Enterprises, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–30 Connections or arrangements with others; 13.15–190 Manufacturing nature; § 13.30 *Composition of goods:* 13.30–75 Textile Fiber Products Identification Act; § 13.70 *Fictitious or misleading guarantees;* § 13.73 *Formal regulatory and statutory requirements:* 13.73–90 Textile Fiber Products Identification Act; 13.73–92 Truth in Lending Act; § 13.75 *Free goods or services;* § 13.105 *Individual's special selection or situation;* § 13.155 *Prices:* 13.155–100 Usual as reduced, special, etc.; § 13.255 *Surveys.* Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act; § 13.1230 *Identity.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1395 *Connections and arrangements with others;* § 13.1485 *Manufacturer's operations;* Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; § 13.1625 *Free goods or services;* § 13.1647 *Guarantees;* § 13.1663 *Individual's special selection or situation;* § 13.1757 *Surveys;* Misrepresenting oneself and goods—Prices: § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–70 Textile Fiber Products Identification Act; 13.1852–75 Truth in Lending Act; § 13.1892 Sales contract, right-to-cancel provision.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147, 72 Stat. 1717, 15 U.S.C. 45, 1601–1605, 70) [Cease and desist order, Kustom Enterprises, Inc., et al., Wheat Ridge, Colo., Docket No. 8846, Jan. 24, 1972]

In the Matter of Kustom Enterprises, Inc., a Corporation, and Joseph A. Padilla, Thomas M. Roth and Sherri Roth, Individually and as Officers of Said Corporation, and Marketing Enterprises, Inc., a Corporation, and Eugene DeWitt, and Julian Chavez, Individually and as Officers of Said Corporation

Order requiring two Wheat Ridge, Colo., corporations selling and distributing residential carpeting and carpet padding to cease using telephone calls or free gifts to gain access to the homes of prospective purchasers, misrepresenting that they are the exclusive franchisee of carpet manufacturers or that a prospect's home has been specially selected for a test installation, making deceptive guarantees, failing to disclose that the selling price of carpet is by the square yard, failing to give notice that any sales contract may be rescinded within 3 days, and negotiating any note to a finance company prior to midnight of the fifth day. Respondents are also required to make all disclosure required by Regulation Z of the Truth in Lending Act and comply with the misbranding and advertising provisions of the Textile Fiber Products Identification Act.

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

I. *It is ordered,* That respondents Kustom Enterprises, Inc., a corporation, and its successors and assigns, and its officers, and Joseph A. Padilla, Thomas M. Roth, and Sherri Roth, individually and as officers of said corporation, and respondents Marketing Enterprises, Inc., a corporation, and its successors and assigns, and its officers, and Eugene DeWitt and Julian Chavez, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, distribution, or installation of carpeting, carpet padding, or floor coverings, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents are conducting a telephone survey when prospective purchasers are called by telephone; or representing, in any manner, that the purpose of said telephone calls is other than to obtain leads or prospects as to persons who may be interested in the purchase of carpeting, carpet padding, floor coverings, or other merchandise or services sold by respondents.

2. Representing, directly or by implication, that respondents' representatives will call on prospective purchasers in their homes for the purpose of delivery of a free gift; or misrepresenting, in any manner, the purpose of respondents' representatives' calls.

3. Failing to disclose to prospective purchasers that respondents' salesmen will call on them at their homes for the purpose of selling respondents' products.

4. Using, in any manner, a sales plan, telephone solicitation plan, scheme or device wherein false, misleading, or deceptive statements or representations are made in order to obtain leads or prospects for the sale of carpeting, carpet padding, floor coverings, or other merchandise or services.

5. Representing, directly or by implication, that respondents operate or do business as an exclusive franchisee of, or exclusive sales outlet for, the manufacturer of carpeting and carpet padding; or misrepresenting, in any manner, the nature, scope or character of respondents' business.

6. Representing, directly or by implication, that carpeting and carpet padding sold by respondents have been developed exclusively for their sales operations through a special manufacturing process by their franchising manufacturer, or that such carpeting or carpet padding was developed by the manufacturer thereof exclusively for commercial use to be sold only to establishments such as hotels, motels, casinos, restaurants, and theaters, or that such carpeting and carpet padding are of commercial grade and quality.

7. Representing, directly or by implication, that respondents' carpeting and carpet padding are being offered for sale, or sold, for the first time to homeowners for residential use; or misrepresenting, in any manner, the length of time respondents' carpeting or carpet padding has been offered for sale or sold to homeowners.

8. Representing, directly or by implication, that the homes of prospective purchasers have been specially selected to be used as test homes for the installation of respondents' carpeting and carpet padding or that thereafter they will be used for demonstration or advertising purposes.

9. Representing, directly or by implication, that reductions or discounts from respondents' regular or usual selling prices are contingent upon purchasers signing a contract during the initial visit by respondents' salesmen, or upon purchasers agreeing to allow their names or homes to be used by respondents for advertising or promotional purposes; or misrepresenting, in any manner, that respondents' offer of products is limited as to time or in any other manner, unless such limitations are, in fact, imposed and in good faith adhered to.

10. Representing, directly or by implication, that any price for respondents'

carpeting, carpet padding, or for the installation thereof, or other merchandise or services, is a special or reduced price, unless such price constitutes a significant reduction from the price at which such merchandise or services have been sold, or offered for sale by the respondents for a reasonably substantial period of time in the recent, regular course of their business.

11. Representing, directly or by implication, that carpeting or carpet padding, of like grade and quality as that sold by respondents, is not available to purchasers through normal retail outlets.

12. Representing, directly or by implication, that respondents' carpeting will not fade, mat, snag heels, attract dirt or dust, generate static electricity, or show stains as other carpeting of like grade and quality; or misrepresenting, in any manner, the quality features or characteristics of products sold by respondents.

13. Representing, directly or by implication, that any of respondents' carpeting, carpet padding or other products or installations thereof, are guaranteed, unless the true nature, extent, and duration of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith; or making any direct or implied representation that any of respondents' products are guaranteed, unless in each instance a written guarantee is given to the purchaser, containing provisions fully equivalent to those contained in such representations, and unless respondents promptly fulfill all of their obligations under the terms of such guarantee.

14. Representing, directly or by implication, that respondents' carpeting is cut to fit the purchaser's home after the sale thereof, and before the carpeting is delivered to the purchaser's home for installation.

15. Representing, directly or by implication, that carpeting of the type sold by respondents is sold only by the unit, and not by the square yard; or misrepresenting, in any manner, methods used by respondents in the measurement of purchasers' homes for carpeting and carpet padding or the installation thereof, or in determining respondents' selling prices as based upon such measurements.

16. Failing to disclose that respondents' carpeting and carpet padding are sold by the square yard, and the selling price per square yard of such products.

17. Representing, directly or by implication, that the prices charged for respondents' carpeting, carpet padding, and the installation thereof, are lower than those charged by their competitors for products of like grade and quality and for like installation, unless respondents' prices are, in fact, substantially lower than those charged for such products and services in the trade area, during the same period of time, by their competitors for similar products and the installation thereof.

18. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraphs 10 and 17 of this order are based, and (b) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraphs 10 and 17 of this order can be determined.

19. Representing, directly or by implication, that respondents' carpeting and carpet padding have any performance characteristics, or are superior in quality or performance to other products, unless each such characteristic was fully and completely substantiated by competent scientific tests, the results of which are in writing and available for inspection, and the basis of comparison is clearly and specifically stated, and the comparison is based on identical conditions of use.

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

NOTICE

Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby notwithstanding any contractual provisions or other agreement to the contrary.

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

22. Failing to disclose orally, prior to the time of sale and in writing on any trade acceptance, conditional sales contract, promissory note or other instrument executed by the buyer, with such conspicuousness and clarity as is likely to be observed and read by such buyer, that the buyer may rescind or cancel the sale by directing or mailing a notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale. Upon such cancellation, the burden shall be on respondents to return any payments received from the buyer.

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

24. Negotiating any trade acceptance, conditional sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party, prior to midnight of the fifth day, excluding Sundays and legal holidays, after the date of execution by the buyer.

25. Failing, in any transaction, to delay the performance and the causing or permitting of performance of any of the following actions, until the cancellation period has expired and respondents have reasonably satisfied themselves that no customer to the transaction has exercised his right of cancellation:

a. Making any physical changes in the property of the customer;

b. Performing any work or service for the customer; or

c. Making any deliveries to the residence of the customer.

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

II. *It is further ordered,* That respondents Kustom Enterprises, Inc., and Marketing Enterprises, Inc., corporations, and their successors and assigns, and their officers, and Joseph A. Padilla, Thomas M. Roth, and Sherri Roth, individually and as officers of the respondent Kustom Enterprises, Inc., and Eugene DeWitt and Julian Chavez, individually and as officers of the respondent Marketing Enterprises, Inc., and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with any extension of consumer credit or any advertisement to aid, assist or promote, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to make all disclosures required to be made by § 226.8 of Regulation Z, as required thereby.

2. Failing, in any consumer credit transaction in which a security interest is or will be retained or acquired in real property, which is used or is expected to be used as the principal residence of the customer, to provide each customer, who has the right to rescind that transaction pursuant to the provisions of § 226.9(a) of Regulation Z, with copies of the notice of right to rescind, in the number, manner and form prescribed in §§ 226.9(b) and 226.9(f) of Regulation Z, as required by § 226.9(b) thereof.

3. Failing, in any consumer credit transaction in which a security interest is or will be retained or acquired in real property, which is to be used or is expected to be used as the principal residence of the customer, to delay the performance and the causing or permitting of performance of any of the following actions until the rescission period has expired and respondents have reasonably satisfied themselves that no customer to the transaction has exercised his right of rescission:

a. Making any physical changes in the property of the customer;

b. Performing any work or service for the customer; or

c. Making any deliveries to the residence of the customer if the creditor has retained or will acquire a security interest other than one arising by operation of law, except as provided in § 226.9(e) of Regulation Z, in instances where the customer modifies or waives his right to rescind, as required by § 226.9(c) of Regulation Z.

4. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

III. *It is further ordered,* That respondents Kustom Enterprises, Inc., a corporation, and its successors and assigns, and Joseph A. Padilla, Thomas M. Roth, and Sherri Roth, individually and as officers of said corporation, and respondents Marketing Enterprises, Inc., a corporation, and its successors and assigns, and Eugene DeWitt and Julian Chavez, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

1. Misbranding textile fiber products by failing to stamp, tag, label or otherwise identify such products as to each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act, in a clear, legible and conspicuous manner, as to:

a. The true generic name of the fibers present;

b. The percentage of each fiber present, by weight, in the total fiber content of said textile fiber product, exclusive of ornamentation, not exceeding five (5) per centum by weight of the total fiber content.

c. The name, or other identification issued and registered by the Commission, of the manufacturer of the textile fiber products.

2. Falsely and deceptively advertising fiber products by:

a. Making any representation by disclosure or by implication, as to fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale, or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label, or other means of identification under sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

b. Using a fiber trademark in advertising textile fiber products containing only one fiber, without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

It is further ordered, That the respondents shall forthwith distribute a copy of this order to each of their respective operating divisions.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale, or sale, of any product, or in the consummation of any extension of consumer credit, or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

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

Issued: January 24, 1972.

By the Commission.

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

[FR Doc.72-2982 Filed 2-28-72;8:47 am]

[Docket No. C-2123]

PART 13—PROHIBITED TRADE PRACTICES

Spiegel, Inc.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1892 Sales contract, right-to-cancel provision; § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Spiegel, Inc., Chicago, Ill., Docket No. C-2123. Jan. 3, 1972]

In the Matter of Spiegel, Inc., a corporation.

Consent order requiring a Chicago, Ill., catalog retailer to cease violating the Truth in Lending Act by failing to disclose in its credit life and disability insurance its annual percentage rate, the method of computing its finance charges, and failing to comply with other provisions of Regulation Z of said Act.

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

It is ordered, That respondent, Spiegel, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or in connection with any advertisement to aid, promote, or assist directly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), shall cease and desist from:

1. Failing, in any credit transaction, to include and to itemize the amount of premiums for credit life and disability insurance as part of the finance charge, unless the amount of such premiums is excluded from the finance charge because of appropriate exercise of the option available pursuant to Section 226.4 (a) (5) of Regulation Z.

2. Failing, on any periodic statement (except in the case of an account which it deems to be uncollectible or with respect to which delinquency collection procedures have been instituted),

(a) To clearly and conspicuously disclose the correct amount of the finance charge determined in accordance with § 226.4 of Regulation Z, and to itemize and identify such finance charge as required by § 226.7(b) (4) of Regulation Z;

(b) To disclose the "annual percentage rate" computed in accordance with § 226.5 of Regulation Z, as required by § 226.7(b) (6) of Regulation Z;

(c) To disclose the date by which or the period, if any, within which payment of the "new balance" may be made to avoid additional finance charges, as required by § 226.7(b) (9) of Regulation Z; and

(d) To disclose the lower balance to which the periodic rate applies, when application of the periodic rate does not yield an amount equal to the minimum finance charge, as required by § 226.7(b) (5) of Regulation Z.

3. Separating the disclosures so as to confuse or mislead the customer or obscure or detract attention from the required disclosure of the method of computing finance charges, pursuant to § 226.7(c) (4) of Regulation Z, by representing that it computes the finance charge in any manner other than that actually used by respondent.

4. Representing in any advertisement, catalog, or brochure, directly or by implication, that no downpayment is required without clearly and conspicuously setting forth, in the terminology prescribed in § 226.7(b) of Regulation Z, each item required by § 226.10(c) of Regulation Z, or, as an alternative to the foregoing.

Failing to refer to a schedule or statement of credit terms containing the disclosures required by § 226.10(c) of Regulation Z by incorporating in immediate conjunction with the representation that no downpayment is required, pursuant to § 226.10(b) of Regulation Z, a statement similar to the following:

If you elect credit, see credit terms on page ------.

5. Failing, in a schedule of credit terms in any of its catalogs or other multiple page advertisements, to disclose the lower balance to which the periodic rate applies, when application of the periodic rate does not yield an amount equal to the minimum finance charge, as required by § 226.10(c)(4) of Regulation Z.

6. Failing, in any consumer credit transaction or advertisement, to make the disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, and 226.10 of Regulation Z.

It is further ordered, That respondent, in connection with each sale of credit life insurance written in connection with its credit sales on or after July 1, 1969 in which respondent failed to obtain a specific dated and separately signed affirmative written indication of the customer's desire for such insurance and thereafter failed to include the charges for such insurance in the amount of finance charge debited to the customer's account monthly, shall mail to each customer to whom such sale of credit life insurance was made and whose account is in open or current status, the following notice, and accompanying letter.

We hereby supply you with the following information concerning your credit life insurance policy:

1. The cost of credit life insurance which has been charged to you since you opened this account with Spiegel, Inc. is 13 cents per hundred dollars of the unpaid balance.

2. Such insurance was not and is not required as a condition to Spiegel's extending credit to you.

3. You have a right to request cancellation of this policy. You may exercise your right to cancel by signing (on line 1) that portion of the enclosed notice canceling your credit life insurance policy and returning it to Spiegel, Inc., in the accompanying self-addressed envelope. Such cancellation is effective when received by Spiegel, Inc. You understand that once having canceled you will have no rights under the policy even though the policy may have been in effect up to the time of cancellation.

4. If you desire to continue your credit life insurance policy, you should sign that portion of the enclosed notice (on line 2) which indicates your desire for insurance coverage and return it to Spiegel, Inc., in the accompanying self-addressed envelope.

CREDIT LIFE INSURANCE NOTICE

I hereby request cancellation of my credit life insurance covering the above account. I understand that upon receipt of this cancellation I will have no benefits under any insurance policy with respect to the above account.

Date ----------

(1) ----------
Signature of customer in whose name account is recorded.

"I desire to continue my credit life insurance policy

Date ----------

(2) ----------
Signature of customer in whose name account is recorded.

It is important that you return this notice before ----------.

Respondent's obligations under this provision shall not be fulfilled until each customer affected by it has returned the notice specified herein: *Provided,* That as long as respondent can demonstrate that any such customer cannot be contacted or that any such customer failed to reply after respondent expended reasonable efforts, in writing or orally, to effect such reply monthly for a period of 4 months after mailing the notice to such customer, respondent shall have complied with this provision.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent at its general offices in Chicago who are engaged as head of the particular department, in the extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said copy of this order from each such person.

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

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

Issued: January 3, 1972.

By the Commission.

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

[FR Doc.72-2983 Filed 2-28-72;8:47 am]

[Docket No. C-2124]

PART 13—PROHIBITED TRADE PRACTICES

Stewart Brothers & Alward Co., et al.

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 Formal regulatory and statutory requirements: 13.1623-95 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1892 *Sales contract, right-to-cancel provision.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Stewart Brothers & Alward Co. et al., Newark, Ohio, Docket No. C-2124, Jan. 3, 1972]

In the Matter of Stewart Brothers & Alward Co., a Corporation, and Walter T. Brown, Floyd F. Layman, Helen (NMI) Reitter, and Howard W. Kraner, Individually and as Officers of Said Corporation

Consent order requiring a Newark, Ohio, dealer in furniture and appliances to cease violating the Truth in Lending Act by failing to properly use on its installment contracts the terms "finance charge," "cash down payment," "unpaid balance of cash price," "deferred payment price" and other disclosures required by Regulation Z of said Act.

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

It is ordered, That respondents Stewart Brothers & Alward Co., a corporation, and its officers, and Walter T. Brown, Floyd F. Layman, Helen (NMI) Reitter, and Howard W. Kraner, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote, or assist directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

(1) Failing to print the term "Finance Charge" more conspicuously than other terminology where such term is required to be used, as required by § 226.6(a) of Regulation Z;

(2) Failing to make full disclosures before the transaction is consummated and to furnish the customers with a duplicate of the instrument or a statement by which the required disclosurers are made, as required by § 226.8(a) of Regulation Z;

(3) Failing to disclose the amount of any odd monthly payment, as required by § 226.8(b)(3) of Regulation Z;

(4) Failing to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments, as required by § 226.8(b)(4) of Regulation Z;

(5) Failing to employ the term "Cash Down Payment" to describe any down payment in money and to disclose the amount of the "Total Down Payment", using that term, as required by § 226.8(c)(2) of Regulation Z;

(6) Failing to employ the term "Unpaid Balance of Cash Price" to describe the difference between the cash price and total down payment, as required by § 226.8(c)(3) of Regulation Z;

(7) Failing to employ the term "Amount Financed" to describe the balance financed and to disclose such amount, as required by § 226.8(c)(7) of Regulation Z;

(8) Failing to employ the term "Deferred Payment Price" to describe the sum of the cash price, all other charges which are included in the amount financed but are not a finance charge under § 226.4 of Regulation Z, and the total amount of the finance charge, if any, as required by § 226.8(c)(8)(ii) of Regulation Z;

(9) Failing to make the disclosures to the extent applicable as prescribed under § 226.8 of Regulation Z, when an existing obligation is increased, as required by § 226.8(j) of Regulation Z;

(10) Failing to give notice of right to rescind in credit transactions in which a security interest is or will be retained or acquired in any real property which is used or is expected to be used as the principal residence of the customer by furnishing two copies of such notice in the form as set forth in § 226.9(b) of Regulation Z, as required by § 226.9 of Regulation Z;

(11) Stating in advertising the amount of the down payment required or that no down payment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, without stating all of the following items in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

(i) The cash price.

(ii) The amount of the down payment required or that no down payment is required, as applicable.

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.

(iv) The amount of the finance charge expressed as an annual percentage rate.

(v) The deferred payment price.

(12) Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with § 226.4 and § 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That Respondents deliver a copy of this Order to cease and desist to all present and future personnel of Respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that Respondents secure a signed statement acknowledging receipt of said Order from each such person.

It is further ordered, That Respondents notify the Commission at least thirty (30) days prior to any proposed change in the Corporate Respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor Corporation, the creation or dissolution of subsidiaries or any other change in the Corporation which may affect compliance obligations arising out of the Order.

It is further ordered, That the Respondents herein shall, within sixty (60) order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the Order to Cease and Desist contained herein.

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

Issued: January 3, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-2984 Filed 2-28-72;8:48 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-68]

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

Security of Cargo in Unlading Areas and Clearance of Containerized Cargo

On September 14, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18410) whose stated purpose was to:

(1) Incorporate established procedures, instituted on a provisional basis, for transporting containerized cargo from the place of unlading to a designated container station for the purpose of breaking bulk and redelivering the cargo;

(2) Make applicable to independent container station operators the procedures relating to the security of cargo in unlading areas contained in the aforementioned Treasury decision (T.D. 71-39).

Interested persons were given the opportunity to submit written comments, suggestions, or objections regarding the proposed regulations. After consideration of all such relevant matters as were presented, the proposed regulations, with a modification of § 19.40 to clarify at which places a container station may be established, are hereby adopted as set forth below.

Effective date. These amendments shall become effective 30 days following the date of their publication in the FEDERAL REGISTER.

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

Approved: February 17, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

1. The title of Part 19 is amended to read as set forth above.

2. Part 19 is amended by adding a new days after service upon them of this centerhead and §§ 19.40 through 19.49 to read as follows:

CONTAINER STATIONS

§ 19.40 Establishment of container stations.

A container station, independent of the importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefor and its approval by the district director and the posting, in the sum of $25,000 or such larger amount as the district director shall determine, of a bond in the following format:

Port of _____
No. _____

BUREAU OF CUSTOMS
CONTAINERIZED CARGO BOND (TERM)

Know All Men By These Presents:

That: [1] _____, of _____, as principal, and [1] _____ of _____, and _____ of _____, as sureties, are held and firmly bound unto the United States of America in the sum of _____ dollars ($_____), for payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19__.

Whereas, the above-bounden principal has requested, or will request, permission to remove imported containers, truck trailers, lift vans or vehicles (hereinafter referred to as containers) containing merchandise or baggage (hereinafter referred to as merchandise) from the place of unlading from an importing vessel, vehicle or aircraft of the _____, for transportation to the _____ terminal(s) at _____ for a period beginning on the _____ day of _____, 19__, and ending on the _____ day of _____, 19__, both days inclusive; and

Whereas, the above-bounden principal has requested, or will request, the assignment of Customs officers or employees to overtime duty at night or on Sunday or a holiday pursuant to the provisions of the Tariff Act of 1930, as amended, the Act of February 13, 1911, as amended, or any other act, or acts and regulations relating thereto, in effect at the time of such duty, on behalf of the herein referred to containers, and the merchandise therein;

Now, Therefore, the Condition of This Obligation is Such That—

(1) If the above-bounden principal shall pay such sums as are chargeable under law and regulations for any services as may be performed for said containers and the merchandise therein by Customs officers or employees and shall promptly pay any duties, charges, exactions, penalties, or other sums found legally due the United States by said principal on account of said containers and the merchandise therein;

(2) And if the above-bounden principal shall exonerate and hold harmless the United States and its officers from, or on account of, any risk, loss, or expense of any kind or description which might occur or be occasioned by reason of the granting of any special license to discharge or take on such merchandise in said containers at night or on Sunday or holiday, as well as from any loss or damage resulting from fraud or negligence on the part of any officer, agent, or other person employed by the

[1] If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

above-bounden principal, by reason of the granting of any special license;

(3) And if the principal shall make prompt report of arrival of the containers and the merchandise therein by delivery of the manifest, and permit to transfer, to the district director or other proper customs officer to whom the containers and the merchandise therein are consigned in said manifest or permit to transfer, or by other notice satisfactory to the district director;

(4) And if the said principal shall, in the event of failure to comply with any or all of the conditions referred to in this instrument, pay to the United States as liquidated damages an amount equal to the value of the nondutiable merchandise with respect to which there shall have been default, the damages on any one shipment not to exceed $500, and shall pay an amount equal to the duties on such dutiable merchandise as may be involved in the default (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise whether free or dutiable, together with the rate and amount of duty and tax, shall also be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry); provided that when delivery shall have been made of any dutiable merchandise in the containers to the ultimate consignee, owner, or other person without permit or release having been issued by the district director or other proper officer of the Customs, the principal shall pay, in addition to the duties on such merchandise a sum equal to 25 per centum of the duties on the merchandise so delivered; and shall pay any internal revenue taxes or other taxes accruing to the United States on the merchandise which is the subject of the default together with all costs, charges, penalties, and expenses caused by the failure to comply with the conditions of this obligation;

(5) And if pursuant to proper permit by the district director of Customs the above-bounden principal shall remove imported containers from the place of unlading from importing vessels, vehicles, or aircraft and land, place, or store any merchandise in the containers in the above-mentioned terminal(s) of the principal or on lighters, piers, landing places, or spaces adjoining thereto, or such other places permitted by the district director on special request made by the principal hereon, and shall retain such merchandise in the containers at such places until a permit for the removal thereof is granted, and, in the event that any such merchandise in the containers shall be removed therefrom before proper permits have been issued, shall pay all duties, taxes, charges, and exactions accruing on any part of the merchandise in the containers so removed; or in the event the merchandise in the containers so removed is free of duty, shall pay as liquidated damages an amount equal to the value of such merchandise contained in the containers, the damages on any one shipment not to exceed $500 (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director, and that the decision of the district director as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, taxes, charges, and exactions also shall be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry);

(6) And if the said principal shall pay the necessary expense of such seals, locks, and other proper fastenings as may be prescribed and required by the district director for securing the transportation and safekeeping or storage of such merchandise contained in the containers as may be placed in the custody of the principal, in such terminals, stations, buildings, rooms, warehouses, elevators, safes, trunks, pouches, or other things for, and places of, keeping or storage, as may be authorized and used by the principal for that purpose;

Then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

_____ (Name) (Address)

_____ (Name) (Address)

[SEAL] _____ (Principal)

_____ (Name) (Address)

_____ (Name) (Address)

[SEAL] _____ (Surety name and number)

_____ (Name) (Address)

_____ (Name) (Address)

[SEAL] _____ (Surety name and number)

(Secs. 450, 499, 623, 46 Stat. 715, as amended, 728, as amended, 759, as amended; 19 U.S.C. 1450, 1499, 1623)

§ 19.41 Movement of containerized cargo to a container station.

Containerized cargo may be moved from the place of unlading to a designated container station prior to the filing of an entry therefor or the permitting thereof (see § 15.8 of this chapter) for the purpose of breaking bulk and redelivery of the cargo.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

§ 19.42 Application for transfer of merchandise.

The container station operator may file an application for the transfer of a container intact to the station. The application shall be in duplicate in the following or substantially similar format:

BUREAU OF CUSTOMS

APPLICATION AND PERMIT TO TRANSFER CONTAINERIZED CARGO TO A CONTAINER STATION

Date _____

Application is made to transfer the containers and their contents listed below which arrived on _____ (Carrier) on _____ (Date) at Pier _____ to the _____ (Container station)

An abstract of the carrier's manifest covering the containers by B/L No., marks, numbers, contents, consignee, etc., is attached hereto.

LIST OF CONTAINERS BY MARKS AND NUMBERS ONLY

_____

_____

_____

_____ (Signature of authorized agent of container station)

We concur: _____ (Signature of agent of importing carrier)

TRANSFER RECORD

Delivered to _____ (cartman), C.H.L. No. _____ in apparent good order and condition except as noted:

Truck No.	Container numbers	Date	Signature of inspector	Signature of cartman	Received signature container operator

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

§ 19.43 Filing of application.

The application, listing the containers by marks and numbers, may be filed at the customhouse or with the discharging inspector at the place where the container is unladen, as designated by the district director.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

§ 19.44 Importing carrier concurrence.

The importing carrier (who, with the operator, remains jointly and severally liable for the proper delivery of the merchandise until it is permitted in accordance with § 15.8 of this chapter) shall indicate its concurrence in the transfer of the merchandise either by signing the application for transfer or by physically turning the merchandise over to the operator. The importing carrier shall furnish an abstract manifest showing the bill of lading number, the marks and numbers of the container, and the usual manifest description for each shipment in the container. The importing carrier will be responsible for ascertaining that the person to whom a container is delivered for transfer to the container station is an authorized representative of the operator.

(Sec. 448, 46 Stat. 714, as amended; 19 U.S.C. 1448)

§ 19.45 Transfer of merchandise, approval and method.

Approval of the application by the district director shall serve as a permit to transfer the container and its contents to the station. The merchandise may only be transferred to a container station by a bonded cartman or bonded carrier. The cartman or carrier shall receipt for the merchandise on both copies of the application.

(Secs. 551, 565, 46 Stat. 742, as amended, 747 as amended; 19 U.S.C. 1551, 1565)

§ 19.46 Employee lists.

A permit shall not be granted to an operator to transfer a container or containers to a container station, if the operator, within 30 calendar days after the date of receipt of a written demand by the district director, does not furnish a written list of names, addresses, social security numbers, and dates and places of birth of persons employed by him in connection with the movement, receipt, storage or delivery of imported merchandise. Having furnished such a list, no new permit shall be issued to an operator who has not within 10 calendar days after the employment of any new personnel employed in connection with the movement, receipt, storage, or delivery of imported merchandise advised the district director in writing of the names, addresses, social security numbers, and dates and places of birth of such new employees. The operator shall, within 10 calendar days, advise the district director if the employment of any employee is terminated. A person shall not be deemed to be employed by an operator if he is an officer or employee of an independent contractor engaged by the operator to move, receive, store, deliver, or otherwise handle imported merchandise.

(Sec. 624, 46 Stat. 759; 19 U.S.C. 1624)

§ 19.47 Security.

The space to be used for the purposes of breaking bulk and delivering cargo shall be properly secured against access by unauthorized persons, including persons not on the list of current employees furnished to the district director by the container station operator, the principal on the bond, as required by § 19.46. A suitable working and office space for the use of Customs officers and employees performing functions in the area shall also be provided.

(Sec. 624, 46 Stat. 759; 19 U.S.C. 1624)

§ 19.48 Withdrawal of privileges.

If discrepancies are discovered which indicate that the revenue may be endangered or there is a failure to retain or secure the designated examination packages, the privileges of a container station operator granted by this subpart may be revoked pursuant to the procedure stated in § 19.3(e).

(Sec. 624, 46 Stat. 759; 19 U.S.C. 1624)

§ 19.49 Entry of containerized merchandise.

Merchandise not entered within the lay order period, or extension thereof, shall be placed in general order. The importing carrier shall issue carrier's certificates for individual shipments in a container. Entries covering merchandise transferred to a container station shall clearly show that the merchandise is at the container station.

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

(R.S. 251, as amended, secs. 555, 556, 624, 644, 46 Stat. 743, as amended, 759, 761; 19 U.S.C. 66, 1551, 1556, 1624, 1644)

[FR Doc.72-3016 Filed 2-28-72;8:51 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

[DESI 7837]

PART 148i—NEOMYCIN SULFATE

Neomycin Sulfate Sterile Powder

In a notice (DESI 7837) published in the FEDERAL REGISTER of May 13, 1970 (35 F.R. 7837), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Mycifradin Sulfate containing neomycin sulfate sterile powder; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49001 (NDA 7-837).

2. Neomycin sulfate sterile powder; Philadelphia Laboratories, Inc., 9815 Roosevelt Boulevard, Philadelphia, Pa. 19114 (NDA 11-596).

3. Neomycin sulfate sterile powder; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 60-366).

4. Neomycin sulfate sterile powder; Pure Laboratories, Inc., 59 Intervale Road, Parsippany, N.J. 07054 (No NDA number).

The notice stated that the drugs were regarded as probably effective, possibly effective, and lacking substantial evidence of effectiveness for the various labeled indications. In a notice published elsewhere in this issue of the FEDERAL REGISTER, the Food and Drug Administration announces that these claims have been reevaluated. As a result of this reevaluation, no effective indications remain for other than the intramuscular route of administration and packages containing 5 or 10 grams of sterile powder are not appropriate for preparation of solutions for intramuscular administration. Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended to reflect these conclusions.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51 as amended, 59 Stat. 463 as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 148i is amended in § 148i.1 by revising paragraph (a)(2) to read as follows:

§ 148i.1 Neomycin sulfate.

(a) * * *

(1) * * *

(2) *Packaging.* In addition to the requirements of § 148.2 of this chapter, each immediate container shall contain 0.35 gram of neomycin.

* * * * *

Any person who will be adversely affected by this amendment to the antibiotic drug regulations may file objections to this order requesting a hearing and showing reasonable grounds for the hearing. The statement of reasonable grounds and request for a hearing shall be submitted in writing within 30 days after publication hereof in the FEDERAL REGISTER, shall state the reasons why the antibiotic drug regulations should not be so amended, and shall include a well organized and full factual analysis of the clinical and other investigational data the objector is prepared to prove in support of his objections.

A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data incorporated into or referred to by the objections and from the factual analysis in the request for a hearing that no genuine issue of fact precludes the action taken by this order, the Commissioner will enter an order making findings and conclusions on such data.

If a hearing is requested and justified by the objections, the issues will be defined and a hearing examiner named to conduct the hearing. The provisions of Subpart F of 21 CFR Part 2 shall apply to such hearing, except as modified by 21 CFR 146.1(f), and to judicial review in accord with section 701 (f) and (g) of the Federal Food, Drug, and Cosmetic Act (35 F.R. 7250, May 8, 1970).

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852. Received objections and requests for a hearing may be seen in the above office during regular business hours, Monday through Friday.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed, the effective date will be extended for ruling thereon. In so ruling, the Commissioner will specify another effective date.

Dated: February 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-2965 Filed 2-28-72;8:46 am]

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 304—RECORDS AND REPORTS OF REGISTRANTS

Narcotic Controlled Substances

A notice was published in the FEDERAL REGISTER on December 8, 1971 (36 F.R. 23304), proposing amendments to Part 304 of Title 21 of the Code of Federal Regulations. A notice extending the time for filing comments on this proposal was published in the FEDERAL REGISTER on January 6, 1972 (37 F.R. 144).

In light of the comments received from various manufacturers of controlled substances, the Director has determined not to finalize the proposed amendments. The Bureau will review the entire reporting system and propose new amendments in the near future.

In order to satisfy U.S. obligations under the Single Convention on Narcotic Drugs, however, certain amendments to § 304.32 are required. These amendments are intended to obtain information regarding inventories of Schedule III narcotic drugs. Many distributors and exporters voluntarily provided the Bureau with this information as of December 31, 1971. Because of U.S. treaty mandates, it will be necessary to require those distributors and exporters who have not already submitted this information to do so. If an inventory of Schedule III narcotics as of December 31, 1971, is not available, a new inventory should be taken of these items and submitted in lieu of a December 31 inventory.

Therefore, under the authority vested in the Attorney General by sections 301, 307, 501(b), and 1008(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs, by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that:

1. Section 304.22 be amended by substituting the words "Schedules I, II and III" for the words "Schedules I and II" in paragraphs (a), (b), (c), and (d).

2. Every registered distributor and every registered exporter who has not by this date submitted as part of his December 31, 1971, monthly report, an inventory on BND Form 235c of narcotic controlled substances listed in Schedule III shall file an amended report with such an inventory (either as of December 31, 1971, or later, with the date of inventory noted) on or before March 15, 1972. Such amended report shall be filed with the Distribution Audit Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Washington, D.C. 20537.

This order is effective upon the date of its publication in the FEDERAL REGISTER (2-29-72).

Dated: February 24, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-3017 Filed 2-28-72;8:51 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7163]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Special Contingency Reserves of Life Insurance Companies

On November 4, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 805 and 810 of the Internal Revenue Code of 1954 (relating to special contingency reserves of life insurance companies) to reflect the changes made by section 907(a) of the Tax Reform Act of 1969 (83 Stat. 715) was published in the FEDERAL REGISTER (36 F.R. 21206). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted.

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: February 19, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 805 and 810 of the Internal Revenue Code of 1954 to section 907(a) of the Tax Reform Act of 1969 (83 Stat. 715), such regulations are amended as follows:

PARAGRAPH 1. Section 1.805 is amended by revising paragraph (e)(4) and by revising the historical note. These revised provisions read as follows:

§ 1.805 Statutory provisions; life insurance companies; policy and other contract liability requirements.

SEC. 805. *Policy and other contract liability requirements.* * * *

* * * * *

(e) *Interest paid.* * * *

(4) *Interest on certain special contingency reserves.* Interest for the taxable year on special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof

[Sec. 805 as amended by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 43); sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 118); sec. 7, Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 828); sec. 907(a), Tax Reform Act 1969 (83 Stat. 715)]

PAR. 2. Section 1.805–8 is amended by revising paragraph (b)(4) to read as follows:

§ 1.805–8 Interest paid.

* * * * *

(b) *Interest paid defined.* * * *

(4) Interest for the taxable year on special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

PAR. 3. Section 1.810 is amended by adding new subsection (c)(6) and by revising the historical note to read as follows:

§ 1.810 Statutory provisions; life insurance companies; rules for certain reserves.

SEC. 810. *Rules for certain reserves.*

* * * * *

(c) *Items taken into account.* * * *

(6) Special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

* * * * *

[Sec. 810 as added by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 125); amended by section 907(a), Tax Reform Act 1969 (83 Stat. 715)]

PAR. 4. Section 1.810–2 is amended by adding a new subparagraph (6) to paragraph (b) and by revising examples (1) and (3) of paragraph (d) thereof to read as follows:

§ 1.810–2 Rules for certain reserves.

* * * * *

(b) *Items taken into account.* * * *

(6) Special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

* * * * *

(d) *Illustration of principles.* The provisions of section 810 (a) and (b) and this section may be illustrated by the following examples:

Example (1). Assume the following facts with respect to R, a life insurance company:

Sum of items described in section 810 (c) (1) through (6) at beginning of taxable year	$940
Sum of items described in section 810 (c) (1) through (6) at end of taxable year	1,060
Required interest (as defined in section 809(a)(2))	70
Investment yield (as defined in section 804(c))	100
Amount of investment yield not included in gain or loss from operations for the taxable year by reason of section 809(a)(1)	70

In order to determine the adjustment for decrease or increase in the sum of the items described in section 810(c) for the taxable year, R must first reduce the sum of such items at the end of the taxable year ($1,060) by the amount of investment yield ($70) not included in gain or loss from operations for the taxable year by reason of section 809(a)(1). Since the adjusted sum of such items at the end of the taxable year, $990 ($1,060

minus $70), exceeds the sum of such items at the beginning of the taxable year, $940, the excess of $50 ($990 minus $940) shall be taken into account as a net increase under section 809(d)(2) and paragraph (a)(2) of § 1.809–5 in determining gain or loss from operations.

* * * * *

Example (3). Assume the following facts with respect to S, a life insurance company:

Sum of items described in section 810 (c) (1) through (6) at beginning of taxable year	$1,970
Sum of items described in section 810 (c) (1) through (6) at the end of taxable year	2,040
Required interest (as defined in section 809(a)(2))	60
Investment yield (as defined in section 804(c))	40
Amount of investment yield not included in gain or loss from operations by reason of section 809(a)(1)	40

Under the provisions of section 809(a)(1), since the required interest ($60) exceeds the investment yield ($40), the share of each and every item of investment yield set aside for policyholders and not included in gain or loss from operations for the taxable year shall be 100 percent. Thus, applying the provisions of section 810 (a) and (b), the sum of the items described in section 810(c) at the end of the taxable year ($2,040) must first be reduced by the entire amount of the investment yield ($40) in order to determine the net increase or decrease in the sum of such items for the taxable year. Since the adjusted sum of such items at the end of the taxable year, $2,000 ($2,040 minus $40), is greater than the sum of such items at the beginning of the taxable year, $1,970, the excess of $30 ($2,000 minus $1,970) shall be taken into account as a net increase under section 809(d)(2) and paragraph (a)(2) of § 1.809–5 in determining gain or loss from operations. No additional deduction is allowed under section 809(d) for the amount ($20) by which the required interest exceeds the investment yield for the taxable year.

* * * * *

[FR Doc.72–2981 Filed 2–28–72;8:47 am]

[T.D. 7164]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Changes in Rates During a Taxable Year

On December 16, 1971, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to changes made by section 132 of the Revenue Act of 1964 (78 Stat. 25, 30) and section 803(e) of the Tax Reform Act of 1969 (83 Stat. 487, 685) was published in the FEDERAL REGISTER (36 F.R. 23935). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted.

(Sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: February 19, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 21(d) of the Internal Revenue Code of 1954 to section 132 of the Revenue Act of 1964 (78 Stat. 25, 30) and section 803(e) of the Tax Reform Act of 1969 (83 Stat. 487, 685) such regulations are amended as follows:

PARAGRAPH 1. Section 1.21 is amended by deleting paragraph 1(d) applicable to taxable years beginning before January 1, 1954, and ending after December 31, 1953, and adding paragraph (d) *Changes Made by Revenue Act of 1964* and paragraph (d) *Changes Made by Tax Reform Act of 1969 in Case of Individuals* and by adding a historical note. These amended provisions read as follows:

§ 1.21 Statutory provisions; effect of changes.

(a) *General rule.* * * *

* * * * *

(d) *Changes Made by Revenue Act of 1964*—(1) *Individuals.* In applying subsection (a) to the taxable year of an individual beginning in 1963 and ending in 1964—

(A) The rate of tax for the period on and after Jauary 1, 1964, shall be applied to the taxable income determined as if part IV of subchapter B (relating to standard deduction for individuals), as amended by the Revenue Act of 1964, applied to taxable years ending after December 31, 1963, and

(B) Section 4 (relating to rules for optional tax), as amended by such Act, shall be applied to taxable years ending after December 31, 1963.

In applying subsection (a) to a taxable year of an individual beginning in 1963 and ending in 1964, or beginning in 1964 and ending in 1965, the change in the tax imposed under section 3 shall be treated as a change in a rate of tax.

(2) *Corporations.* In applying subsection (a) to a taxable year of a corporation beginning in 1963 and ending in 1964, if—

(A) The surtax exemption of such corporation for such taxable year is less than $25,000 by reason of the application of section 1561 (relating to surtax exemptions in case of certain controlled corporations), or

(B) An additional tax is imposed on the taxable income of such corporation for such taxable year by section 1562(b) (relating to additional tax in case of component members of controlled groups which elect multiple surtax exemptions),

the change in the surtax exemption, or the imposition of such additional tax, shall be treated as a change in a rate of tax taking effect on January 1, 1964.

(d) *Changes Made by Tax Reform Act of 1969 in Case of Individuals.* In applying subsection (a) to a taxable year of an individual which is not a calendar year, each change made by the Tax Reform Act of 1969 in part I or in the application of part IV or V of subchapter B for purposes of the determination of taxable income, shall be treated as a change in a rate of tax.

[Sec. 21 as amended by sec. 132, Rev. Act 1964 (78 Stat. 31); sec. 803(e), Tax Reform Act, 1969 (83 Stat. 487)]

PAR. 2. Section 1.21–1 is amended by revising paragraphs (a), (c), (d), (h), (k), and (n). These revised provisions read as follows:

§ 1.21–1 Changes in rate during a taxable year.

(a) Section 21 applies to all taxpayers, including individuals and corporations. It provides a general rule applicable in any case where (1) any rate of tax imposed by chapter 1 of the Code upon the taxpayer is increased or decreased, or any such tax is repealed, and (2) the taxable year includes the effective date of the change, except where that date is the first day of the taxable year. For example, the normal tax on corporations under section 11(b) was decreased from 30 percent to 22 percent in the case of a taxable year beginning after December 31, 1963. Accordingly, the tax for a taxable year of a corporation beginning on January 1, 1964, would be computed under section 11(b) at the new rate without regard to section 21. However, for any taxable year beginning before January 1, 1964, and ending on or after that date, the tax would be computed under section 21. For additional circumstances under which section 21 is not applicable, see paragraph (k) of this section.

* * * * *

(c) If the rate of tax is changed for taxable years "beginning after" or "ending after" a certain date, the following day is considered the effective date of the change for purposes of section 21. If the rate is changed for taxable years "beginning on or after" a certain date, that date is considered the effective date of the change for purposes of section 21. This rule may be illustrated by the following examples:

Example (1). Assume that the law provides that a change in a certain rate of tax shall be effective only with respect to taxable years beginning after December 31, 1969. The effective date of change for purposes of section 21 is January 1, 1970, and section 21 must be applied to any taxable year which begins before and ends on or after January 1, 1970.

Example (2). Assume that the law provides that a change in a certain rate of tax shall be applicable only with respect to taxable years ending after December 31, 1970. For purposes of section 21, the effective date of change is January 1, 1971, and section 21 must be applied to any taxable year which begins before and ends on or after January 1, 1971.

Example (3). Assume that the law provides that a change in a certain rate of tax shall be effective only with respect to taxable years beginning on or after January 1, 1971. The effective date of change for purposes of section 21 is January 1, 1971, and section 21 must be applied to any taxable year which begins before and ends on or after January 1, 1971.

(d) If a tax is repealed, the repeal will be treated as a change of rate for purposes of section 21, and the rate for the period after the repeal (for purposes of computing the tentative tax with respect to that period) will be considered zero. For example, the Tax Reform Act of 1969

repealed section 1562, which imposed a 6 percent additional tax on controlled corporations electing multiple surtax exemptions, effective for taxable years beginning after December 31, 1974. For such controlled corporations having taxable years beginning in 1974 and ending in 1975, the rate for the period ending before January 1, 1975, would be 6 percent; the rate for the period beginning after December 31, 1974, would be zero. However, subject to the rules stated in this section, section 21 does not apply to the imposition of a new tax. For example, if a new tax is imposed for taxable years beginning on or after July 1, 1972, a computation under section 21 would not be required with respect to such new tax in the case of taxable years beginning before July 1, 1972, and ending on or after that date. If the effective date of the imposition of a new tax and the effective date of a change in rate of such tax fall in the same taxable year, section 21 is not applicable in computing the taxpayer's liability for such tax for such year unless the new tax is expressly imposed upon the taxpayer for a portion of his taxable year prior to the change in rate.

* * * * *

(h)(1) Section 21 is applicable only if the rate of tax imposed by chapter 1 changes. Sections in which rates of tax are specified or incorporated by reference include the following: 1, 2, 3, 11, 511, 531, 541, 821, 831, 871, 881, 1201, and 1348 (for taxable years beginning after December 31, 1970). Except as provided in subparagraph (3) of this paragraph, section 21 is not applicable with respect to changes in the law relating to deductions from gross income, exclusions from or inclusions in gross income, or other items taken into account in determining the amount or character of income subject to tax. Moreover, section 21 is not applicable with respect to changes in the law relating to credits against the tax or with respect to changes in the law relating to limitations on the amount of tax. Section 21 is applicable, however, to all those computations specified in the section providing the rate of tax which are implicit in determining the rate, for example, if one of the tax brackets in the tax tables under section 3 were to be changed, section 21 would be applicable to that change. Thus, if the bracket relating to "at least $4,200 but not less than $4,250" for heads of households should be changed to increase or decrease the last sum specified, with corresponding changes being made in subsequent brackets, section 21 would be applicable. The enactment of sections 1561 and 1562 is considered a change in section 11(d) which constitutes a change in rate for the period ending after December 31, 1963. The amendment of section 1561 and the repeal of section 1562 by the Tax Reform Act of 1969 is considered a change in section 11(d) which constitutes a change in rate for the period ending after December 31, 1974. The repeal of the 2 percent additional tax imposed under section 1503 on corporations filing consolidated returns constitutes a change in rate for the period ending after December 31, 1963. The addition to the Code of section 1348 (relating to 50 percent maximum rate on earned income) is a change in rate to which section 21(a) is applicable.

(2) Ordinarily, both the old and the new rates are applied to the same amount of taxable income. However, where the rate of tax is itself taken into account in determining taxable income (for example, the special deduction for Western Hemisphere trade corporations under section 922), the taxable income used in determining the tentative tax employing the rate before the effective date of change shall be determined by reference to that rate of tax, and the taxable income for the purpose of determining the tentative tax employing the rate for the period on and after the effective date of the change shall be determined by reference to the new tax rate.

(3) Section 21 is applicable with respect to changes in the law relating to the standard deduction for individuals provided in part IV of subchapter B and to the deduction for personal exemptions for individuals provided in part V of subchapter B.

* * * * *

(k) Section 21 does not apply in the following situations:

(1) The provisions of section 21 do not apply to the imposition of the tax surcharge by section 51. The proration rules of section 51(a) apply in the case of a taxable year ending on or after the effective date of the surcharge and beginning before July 1, 1970.

(2) The provisions of section 21 do not apply to the imposition of the minimum tax for tax preferences by section 56. The proration rules of section 301(c) of the Tax Reform Act of 1969 (83 Stat. 586) apply in the case of a taxable year beginning in 1969 and ending in 1970.

* * * * *

(n) The application of section 21 may be illustrated by the following examples:

Example (1). A, a married taxpayer filing a joint return, reports his income on the basis of a fiscal year ending June 30. For his fiscal year ending June 30, 1970, A reports taxable income (exclusive of capital gains and losses) of $50,000 and net long-term capital gain (section 1201 gain) of $75,000. The rate of tax on capital gains under section 1201(b) relating to the alternative tax has been increased from 25 percent to a maximum rate of 29½ percent with respect to gain in excess of $50,000 and the effective date of the change in rate is January 1, 1970. The income tax for the taxable year ended June 30, 1970, would be computed under section 21 as follows:

TENTATIVE TAX

Taxable income exclusive of capital gains and losses		$50,000
Long-term capital gain		75,000
		125,000
Deduct 50% of long-term capital gain		37,500
Taxable income		87,500
Tax under section 1 (1969 and 1970 rates)		37,690

ALTERNATIVE TAX UNDER SECTION 1201(b) (1969 RATES)

Taxable income ($50,000+50% of $75,000)		$87,500
Less 50% of long-term capital gain		37,500
Taxable income exclusive of capital gains		50,000
Partial tax (tax on $50,000)		17,060
Plus 25% of $75,000		18,750
Alternative tax under section 1201(b) at 1969 rates		35,810

ALTERNATIVE TAX UNDER SECTION 1201(b) (1970 RATES)

STEP I

Taxable income ($50,000 + 50% of $75,000)	$87,500	
Deduct 50% of net section 1201 gain	37,500	
	50,000	
Tax on $50,000 (taxable income exclusive of capital gains)		$17,060

STEP II

(a) Net section 1201 gain	75,000	
(b) Subsection (d) gain	50,000	
25% of $50,000 (lesser of (a) or (b))		12,500

STEP III

(c) 29½% of $25,000 (excess of (a) over (b))		7,375
(d) Ordinary income	$50,000	
50% of net section 1201 gain	37,500	
	87,500	
Tax on $87,500		37,690
Ordinary income	$50,000	
50% of subsection (d) gain	25,000	
	75,000	
Tax on $75,000		30,470
Difference		7,220
Lesser of (c) or (d)		7,220
Alternative tax (total of 3 Steps) at rates effective on and after January 1, 1970		36,780

Since the alternative tax is less than the tax imposed under section 1 for both the period in 1969 and the period in 1970, the alternative tax applies for both periods. Thus, since the effective date of the change in the rate of tax on capital gains is January 1, 1970, the old rate of alternative tax is effective for 184 days of the taxable year and the new rate of alternative tax is effective for 181 days of the taxable year. The alternative taxes are apportioned as follows:

1969—184/365 of $35,810	$18,052.16
1970—181/365 of $36,780	18,238.85
	36,291.01

Tax surcharge (See § 1.51–1 (d) (1) (i))		2,729.28
Total tax for the taxable year		39,020.29

Example (2). B, a single individual not a head of a household, has a taxable year ending March 31. For the taxable year ending March 31, 1971, B has adjusted gross income of $18,500. His computation of the tax imposed is as follows:

1970 TENTATIVE TAX

Adjusted gross income		$18,500.00
Less:		
Standard deduction	$1,000.00	
Personal exemption	625.00	1,625.00
Taxable income under 1970 deduction provisions		$16,875.00
Tax on $16,875 (1970 rates)		
Tax on first $16,000	4,330.00	
42 percent of $875	367.50	
Tentative tax at rates and deduction provisions effective on or after January 1, 1970		4,697.50

1971 TENTATIVE TAX

Adjusted gross income		$18,500.00
Less:		
Standard deduction	$1,500	
Personal exemption	650	2,150.00
Taxable income under 1971 deduction provisions		16,350.00
Tax on $16,350 (1971 rates)		
Tax on first $16,000	3,830	
34 percent of $350	119	
Tentative tax at rates and deduction provisions effective on or after Januray 1, 1971		3,949.00

The 1970 and 1971 tentative taxes are apportioned as follows:

1970—275/365 of $4,697.50	3,539.21
1971—90/365 of $3,949.00	973.73
	4,512.94
Tax surcharge (see § 1.51–1 (d) (1) (i))	56.26
Total tax for the taxable year	4,569.20

Example (3). H and W, husband and wife, have a foster child, C, who qualifies as a dependent under section 152(b)(2) for the period beginning after December 31, 1969. H and W file a joint return on the basis of a taxable year ending August 31. For the taxable year ending August 31, 1970, H and W have adjusted gross income of $12,500. Their computation of the tax imposed is as follows:

1969 TENTATIVE TAX

Ajusted gross income		$12,500.00
Less:		
Standard deduction	$1,000.00	
Personal exemption (2)	1,200.00	2,200.00
Taxable income under 1969 deduction provisions		10,300.00
Taxable income reduced by one-half		5,150.00
Tax on $5,150 (1969 rates)		
Tax on first $4,000	$690.00	
22 percent of $1,150	253.00	943.00
Twice the tax on $5,150	1,886.00	
Tentative tax at rates and deduction provisions effective on or after January 1, 1969		1,886.00

1970 TENTATIVE TAX

Ajusted gross income		$12,500.00
Less:		
Standard deduction	$1,000.00	
Personal exemption (3)	1,875.00	2,875.00
Taxable income under 1970 deduction provisions		9,625.00
Tax on $9,625 (1970 rates)		
Tax on first $8,000	$1,380.00	
22 percent of $1,625	357.50	
Tentative tax at rates and deduction provisions effective on or after January 1, 1970		1,737.50

The 1969 and 1970 tentative taxes are apportioned as follows:

1969—122/365 of $1,886	$630.39
1970—243/365 of $1,737.50	1,156.75
	1,787.14
Tax surcharge (See § 1.51–1(d) (1) (i))	104.05
Total tax for the taxable year	1,891.19

Example (4). B, a single individual with one exemption, reports his income on the basis of a fiscal year ending June 30. For fiscal year ending June 30, 1971, B reports adjusted gross income of $250,000, consisting of earned net income of $240,000 and investment income of $10,000. In addition, on April 24, 1971, stock was transferred to B pursuant to his exercise of a qualified stock option, and the fair market value of such stock at that time exceeded the option price by $175,000. This $175,000 constitutes an item of tax preference described in section 57(a)(6). B claims itemized deductions in the amount of $34,000. By reason of section 1348, the maximum rate of tax on earned taxable income for a taxable year beginning after 1970 but before 1972 is 60 percent. The income tax for the taxable year ending June 30, 1971, would be computed under section 21 as follows:

1970 TENTATIVE TAX

Adjusted gross income		$250,000.00
Less:		
Itemized deductions	$34,000.00	
Personal exemption	625.00	34,625.00
Taxable income under 1970 deduction provisions		215,375.00
Tax on $215,375 (1970 rates)		
Tax on first $100,000	$55,490.00	
70 percent of $115,375	80,762.50	
Tentative tax at rates and deduction provisions effective on or after January 1, 1970		136,252.50
Minimum tax:		
Total tax preference items		175,000.00
Less:		
Exemption	$30,000.00	
Income tax	136,252.50	166,252.50
Subject to 10 percent tax		8,747.50
10 percent tax		874.75
Total tentative tax ($136,252.50+$874.75)		137,127.25

1971 TENTATIVE TAX

Adjusted gross income		$250,000.00
Less:		
Itemized deductions	$34,000.000	
Personal exemption	650.00	34,650.00
Taxable income under 1971 deduction provitions		215,350.00
(a) Tax on highest amount of taxable income on which rate does not exceed 60 percent ($50,000) (1971 rates)		20,190.00
(b) Earned taxable income: ($215,350 × $240,000/$250,000)	206,736.00	
Less: Tax preference offset: ($175,000 −$30,000)	145,000.00	
	$61,736.00	
(c) 60% of the amount by which $61,736 exceeds $50,000		7,041.60
(d) Tax on $215,350 (1971 rates)		
Tax on first $100,000	$53,090.00	
70% of $115,350	80,745.00	
Total	$133,835.00	
(e) Tax on $61,736 (1971 rates)		
Tax on first $60,000	$26,390.00	
64% of $1,736	1,111.04	
Total	$27,501.04	

(f) Excess of $133,835 over $27,501.04		106,333.96
Tentative tax (total of Steps (a), (c), and (f)) at rates and deduction provisions effective on or after January 1, 1971		133,565.56
Minimum tax:		
Total tax preference items		175,000.00
Less:		
Exemption	$30,000.00	
Income tax	133,565.56	163,565.56
Subject to 10 percent tax		11,434.44
10 percent tax		1,143.44
Total tentative tax ($133,565.56+$1,143.44)		134,709.00

The 1970 and 1971 tentative taxes are apportioned as follows:

1970—184/365 of $137,127.25	69,127.16
1971—181/365 of $134,709	66,800.90
Total tax for the taxable year	135,928.06

Example (5). The surtax exemption of corporation M (one of 4 subsidiary corporations of W corporation), which files its income tax returns on the basis of a fiscal year ending March 31, 1964, is less than $25,000, by reason of section 1561 of the Code applicable to taxable years ending after December 31, 1963, and beginning before January 1, 1975. The taxable income of corporation M is $100,000, and the amount of the surtax exemption determined under the new rule for the 1964 taxable year is $5,000 ($25,000÷5). M's income tax liability for the taxable year ending March 31, 1964, is computed as follows:

1963 TENTATIVE TAX

Taxable income		$100,000
Normal tax on $100,000 (1963 rates) 30 percent of $100,000	$30,000	
Surtax on $75,000 (1963 rates and $25,000 surtax exemption) 22 percent of $75,000	16,500	
Total tentative tax at rates and surtax exemption effective before January 1, 1964		46,500

1964 TENTATIVE TAX

Taxable income		$100,000
Normal tax on $100,000 (1964 rates) 22 percent of $100,000	$22,000	
Surtax on $95,000 (1964 rates and a $5,000 surtax exemption) 28 percent of $95,000	26,600	
Total tentative tax at rates and surtax exemption effective after January 1, 1964		48,600

The 1963 and 1964 tentative taxes are apportioned as follows:

1963—275/366 of $46,500	$34,938.52
1964—91/366 of $48,600	12,083.61
Total tax for the taxable year	47,022.13

M has the same amount of taxable income in 1965. Its income tax liability for the fiscal year ending March 31, 1965, is computed as follows:

1964 TENTATIVE TAX

Taxable income		$100,000
Normal tax on $100,000 (1964 rates) 22 percent of $100,000	$22,000	
Surtax on $95,000 (1964 rates and a $5,000 surtax exemption) 28 percent of $95,000	26,600	
Total tentative tax at the 1964 rates		48,600

1965 TENTATIVE TAX

Taxable income		$100,000
Normal tax on $100,000 (1965 rates) 22 percent of $100,000	$22,000	
Surtax on $95,000 (1965 rates and a $5,000 surtax exemption) 26 percent of $95,000	24,700	
Total tentative tax at the 1965 rates		46,700

The 1964 and 1965 tentative taxes are apportioned as follows:

1964—275/365 of $48,600	$36,616.44
1965—90/365 of $46,700	11,515.07
Total tax for the taxable year	48,131.51

Example (6). Assume the same facts as in example (5), except that M elected the additional tax under section 1562 for its fiscal year ending March 31, 1964. M's tax liability is completed as follows:

1963 TENTATIVE TAX

Taxable income		$100,000
Normal tax on $100,000 (1963 rates) 30 percent of $100,000	$30,000	
Surtax on $75,000 (1963 rates and $25,000 surtax exemption) 22 percent of $75,000	16,500	
Total tentative tax at rates and surtax exemption effective before January 1, 1964		46,500

1964 TENTATIVE TAX

Taxable income		$100,000
Normal tax on $100,000 (1964 rates) 22 percent of $100,000	$22,000	
Surtax on $75,000 (1964 rates and $25,000 surtax exemption) 28 percent of $75,000	21,000	
Additional tax on $25,000 6 percent of $25,000	1,500	
Total tentative tax at rates and surtax exemption effective on and after January 1, 1964		44,500

The 1963 and 1964 tentative taxes are apportioned as follows:

1963—275/366 of $46,500	$34,938.52
1964—91/366 of $44,500	11,064.21
Total tax for the taxable year	46,002.73

Example (7). The surtax exemption of corporation M (one of 4 subsidiary corporations of W corporation), which files its income tax returns on the basis of a fiscal year ending March 31, is for its taxable year ending March 31, 1975, $25,000 because M elects the additional tax under section 1562 for the period April 1, 1974, through December 31, 1974. Section 1562 is repealed effective for the period on or after January 1, 1975. The taxable income of corporation M is $100,000. M's tax liability for the taxable year ending March 31, 1975, is computed as follows:

1974 TENTATIVE TAX

Taxable income		$100,000
Normal tax on $100,000 (1974 rates) 22 percent of $100,000	$22,000	
Surtax on $75,000 (1974 rates and $25,000 surtax exemption) 26 percent of $75,000	19,500	
Additional tax on $25,000 6 percent of $25,000	1,500	
Total tentative tax at rates and surtax exemption effective on and after January 1, 1974		43,000

1975 TENTATIVE TAX

Taxable income		$100,000
Normal tax on $100,000 (1975 rates) 22 percent of $100,000	$22,000	
Surtax on $95,000 (1974 rates and $5,000 surtax exemption) 26 percent of $95,000	24,700	
Total tentative tax at rates and surtax exemption effective on and after January 1, 1975		46,700

The 1974 and 1975 tentative taxes are apportioned as follows:

1974—275/365 of $43,000	$32,397.26
1975— 90/365 of $46,700	11,515.07
Total tax for the taxable year	43,912.33

[FR Doc.72-3028 Filed 2-28-72;8:52 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

St. Marys Falls Canal and Locks, Mich.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.441 prescribing regulations for the security of St. Marys Falls Canal and Locks, Mich., is hereby amended with respect to paragraph (b), revoking subparagraph (1) effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 207.441 St. Marys Falls Canal and Locks, Mich.; security.

* * * * *

(b) *Restrictions on transit of vessels.*

(1) [Revoked]

* * * * *

[Regs. Feb. 16, 1972, 1522-01 DAEN-CWO-N]
(Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.72-3062 Filed 2-28-72;8:52 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 6—U.S. GOVERNMENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

Premium Waiver

Chapter I is amended as follows:

1. In § 6.185, paragraph (m) is added to read as follows:

§ 6.185 Premium waiver on U.S. Government life insurance under section 622 of the National Service Life Insurance Act, as amended, and section 724 of title 38, United States Code.

* * * * *

(m) In any case in which insurance matures by death on or after January 1, 1972, while in force under this section, there shall be placed as an indebtedness against such insurance the amount of premiums, less dividends, waived on or after that date which, unless otherwise paid, shall be deducted from the proceeds. In such case, the liability of the Government under 38 U.S.C. 724(b) shall be reduced by the amount so deducted from the proceeds.

2. In § 8.113, paragraph (n) is added to read as follows:

§ 8.113 Premium waiver under section 622 of the National Service Life Insurance Act, as amended, and section 724 of title 38, United States Code.

* * * * *

(n) In any case in which insurance matures by death on or after January 1, 1972, while in force under this section, there shall be placed as an indebtedness against such insurance the amount of premiums, less dividends, waived on and after that date which, unless otherwise paid, shall be deducted from the proceeds. In such case, the liability of the Government under 38 U.S.C. 724(b) shall be reduced by the amount so deducted from the proceeds.

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective January 1, 1972.

Approved: February 22, 1972.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.72-2998 Filed 2-28-72;8:49 am]

PART 9—SERVICEMEN'S GROUP LIFE INSURANCE

Definitions

In § 9.1, paragraph (u) is added to read as follows:

§ 9.1 Definitions.

* * * * *

(u) The following definitions of the terms widow, widower, child, and parent for Servicemen's Group Life Insurance purposes apply only to such insurance on the life of an insured member who dies on or after December 15, 1971.

(1) The term "widow" or "widower" means a person who is the lawful spouse of the insured member at the time of his death.

(2) The term "child" means a legitimate child, a legally adopted child, an illegitimate child as to the mother, or an illegitimate child as to the alleged father, only if (i) he acknowledged the child in writing signed by him; or (ii) he has been judicially ordered to contribute to the child's support; or (iii) he has been, before his death, judicially decreed to be the father of such child; or (iv) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the insured was the informant and was named as father of the child, or (v) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(3) The term "parent" means a father of a legitimate child, mother of a legitimate child, father through adoption, mother through adoption, mother of an illegitimate child, and father of an illegitimate child but only if (i) he acknowledged paternity of the child in writing signed by him before the child's death; or (ii) he has been judicially ordered to contribute to the child's support; or (iii) he has been judicially decreed to be the father of such child; or (iv) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the claimant was the informant and was named as father of the child; or (v) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the claimant was named as father of the child. No person who abandoned or willfully failed to support a child during his minority, or consented to his adoption may be recognized as a parent for the purpose of the Servicemen's Group Life Insurance program. However, the immediately preceding sentence shall not be applied so as to require duplicate payments in any case in which insurance benefits have been paid prior to receipt by the Office of Servicemen's Group Life Insurance of sufficient evidence to clearly establish that the person so paid could not qualify as a parent solely by reason of such sentence.

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective December 15, 1971.

Approved: February 22, 1972.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.72-2967 Filed 2-28-72;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

[Federal Procurement Reg. Temporary Reg. 24]

PART 1-1—GENERAL

Compliance With Wage-Price Controls

FEBRUARY 22, 1972.

To: Heads of Agencies; Subject: Compliance with wage-price controls.

1. *Purpose.* This regulation amends the Federal Procurement Regulations to provide for appropriate notice to be placed in all solicitations to insure that contractors are familiar with the guidelines established by the Price Commission and the Pay Board regarding maximum escalation permitted in wage rates and in price increases.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER (2-29-72).

3. *Expiration date.* This regulation will continue in effect until canceled.

4. *Background.* On December 28, 1971, the Chairman, Regulations and Purchasing Review Board, requested that each Federal agency establish procedures for notifying contractors and subcontractors of permissible levels of escalation of wage rates and of price

increases. The wage standard limits annual aggregate increases in rates to a maximum of 5.5 percent unless specific exceptions have been granted by the Pay Board. The price standard limits average price increases across the economy to a rate of not more than 2.5 percent per year after adjusting for cost increases, offsetting productivity gains, and considering allowable profit margins. Annual productivity gains are estimated to be 3 percent or higher for the economy during the next 2 years. Use of the procedures prescribed by this regulation will satisfy the agency responsibilities requested by the Regulations and Purchasing Review Board.

5. *Effects on other issuances.* This temporary regulation supplements FPR Temporary Regulation 23. It also applies to future amendments of that regulation.

6. *Explanation of change.* Section 1–1.321–8 is added as follows:

§ 1–1.321–8 Maximum permissible escalation in wage and price standards.

(a) Each new solicitation or contract award which exceeds $2,500 and is subject to the contract requirements of FPR Temporary Regulation 23, and future amendments of that regulation, shall include a cover sheet or appropriate addendum containing the following notice:

NOTICE OF MAXIMUM PERMISSIBLE ESCALATION IN WAGE AND PRICE STANDARDS

Bidders are advised of standards established under Executive Orders 11615, 11627, and 11640 setting maximum permissible percentages of escalation in wage rates and price increases. Such standards call for wage rate increases of no more than 5.5 percent per annum unless specific exceptions have been granted by the Pay Board. The price standard established by the Price Commission has the objective of holding economy-wide price increases to 2.5 percent per annum (3 percent per annum in the case of small business firms). To achieve this target, firms are allowed to increase prices to reflect allowable costs incurred since the last price increase or since January 1, 1971, whichever was later, and such costs as firms are continuing to incur, adjusted to reflect productivity gains. These price increases may not result in profit margins on sales which exceed the firm's profit margins for the highest 2 of the last 3 fiscal years ending before August 15, 1971. Average productivity gains are estimated to be 3 percent or higher for the economy annually for 1972 and 1973.

(b) In the pricing of contracts involving the submission of cost or pricing data, contracting officers shall not recognize any amounts for annual aggregate pay increases in excess of 5.5 percent unless the prospective contractor can demonstrate that such increases have been allowed by the Pay Board. Lesser amounts should be negotiated to the extent practicable. The responsibility for complying with applicable standards in these and other negotiated contracts rests with contractors pursuant to the contract and certification requirements of FPR Temporary Regulation 23, and future amendments of that regulation.

7. *Application to grants.* The Federal Procurement Regulations are not mandatorily applicable to grants, i.e., grants which are not in the form of contracts, but the Regulations and Purchasing Review Board has indicated that using the procedures prescribed in this regulation would satisfy agency responsibilities in connection with grants.

ROD KREGER,
Acting Administrator of General Services.

FEBRUARY 22, 1972.

[FR Doc.72-3006 Filed 2-28-72;8:50 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 987]

DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Disposition of Restricted and Other Marketable Dates by Export or Diversion

Notice is hereby given of a proposal to authorize the exportation to groups of countries of restricted and other marketable dates certified as meeting the minimum grade requirements for restricted date for further processing. The proposal is pursuant to § 987.55 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987; 36 F.R. 15053), regulating the handling of domestic dates produced or packed in Riverside County, Calif. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than 7 days after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is to amend § 987.155(a) of Subpart—Administrative Rules and Regulations (7 CFR 987.100–987.174; 36 F.R. 23137; 37 F.R. 1159) as follows:

1. In subparagraph (1), add "or (5)" immediately after "subparagraph (2)".

2. Add a new subparagraph (5) reading as follows:

§ 987.155 Disposition of restricted and other marketable dates by export or diversion.

(a) * * *

(5) Restricted and other marketable dates certified as meeting the then current grade requirements in § 987.203(b)(2) for restricted dates for further processing may be exported (i) to the following designated date producing and processing countries of North Africa: Morocco, Algeria, Tunisia, Libya, Egypt, and Sudan, and (ii) to the following designated date processing and consuming countries north of the Mediterranean Sea: Spain, France, Belgium, West Germany, Italy, and Greece. Additional such date producing and processing and date processing and consuming countries may from time to time be similarly designated, after which such certified dates may be exported to such countries.

Dated: February 24, 1972.

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

[FR Doc.72-3019 Filed 2-28-72;8:51 am]

[7 CFR Part 1004]

MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Notice of Proposed Changes in Codification of the Order

Notice is hereby given that a regrouping and recodifying of the provisions of the marketing order, issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), regulating the handling of milk in the Middle Atlantic marketing area is being considered.

All persons who desire to submit written data, views, or arguments in connection with the proposed changes should file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The regrouping of provisions together with the redesignation of section numbers (and codified subunits) of the Middle Atlantic Order 4 (Part 1004) is intended to result in a more compact order and a more precise grouping of related order provisions. No substantive change in the order provisions is being made.

The need for rearrangement of the order provisions in large part reflects the cumulative effect of past amendments which have resulted in a number of unused subunits which disrupt the continuity of the order. The redesignation of codified units will also accommodate future changes in the order.

The proposed restructured Middle Atlantic Order No. 4, without substantive change, is set forth below:

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1004.1 General provisions.

DEFINITIONS

1004.2 Middle Atlantic marketing area.
1004.3 Route disposition.
1004.4 Plant.
1004.5 [Reserved]
1004.6 [Reserved]
1004.7 Pool plant.
1004.8 Nonpool plant.
1004.9 Handler.
1004.10 Producer-handler.
1004.11 Dairy farmer.
1004.12 Producer.
1004.13 Producer milk.
1004.14 Other source milk.
1004.15 Fluid milk product.
1004.16 [Reserved]
1004.17 Filled milk.
1004.18 Exempt milk.
1004.19 Certified milk.
1004.20 Cooperative association.

HANDLER REPORTS

1004.30 Reports of receipts and utilization.
1004.31 [Reserved]
1004.32 Other reports.

CLASSIFICATION OF MILK

1004.40 Classes of utilization.
1004.41 Shrinkage.
1004.42 Classification of transfers and diversions.
1004.43 General rules.
1004.44 Classification of producer milk.
1004.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1004.50 Class prices.
1004.51 Basic formula price.
1004.52 Location differentials to handlers.
1004.53 Announcement of class prices and producer butterfat differential.
1004.54 Equivalent prices or indexes.

UNIFORM PRICES

1004.60 Pool obligation of each pool handler.
1004.61 Computation of weighted average price and uniform prices for base milk and excess milk.
1004.62 Announcement of weighted average price and uniform prices for base milk and excess milk.

PAYMENTS FOR MILK

1004.70 Producer-settlement fund.
1004.71 Payments to the producer-settlement fund.
1004.72 Payments from the producer-settlement fund.
1004.73 Payments to producers and to cooperative associations.
1004.74 Butterfat differential.
1004.75 Location differentials to producers and on nonpool milk.
1004.76 Payments by a handler operating a partially regulated distributing plant.
1004.77 Adjustment of accounts.
1004.78 [Reserved]
1004.79 Direct delivery differential.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1004.85 Assessment for order administration.
1004.86 Deduction for marketing services.

BASE-EXCESS PLAN

1004.90 Base milk.
1004.91 Excess milk.

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1004.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1004.2 Middle Atlantic marketing area.

"Middle Atlantic marketing area" (hereinafter called the "marketing area") means all territory within the boundaries of the following places, including piers, docks and wharves and territory within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

(a) The District of Columbia.

(b) The State of Delaware.

(c) In the State of Maryland:

(1) The counties of:

Anne Arundel.	Howard.
Baltimore.	Kent.
Calvert.	Montgomery.
Caroline.	Prince Georges.
Carroll.	Queen Annes.
Cecil.	Somerset.
Charles.	St. Marys.
Dorchester.	Talbot.
Frederick.	Wicomico.
Harford.	Worcester.

(2) The city of Baltimore.

(3) Fort Ritchie.

(d) In the State of New Jersey:

(1) The counties of:

Atlantic.	Cumberland.
Burlington.	Gloucester.
Camden.	Mercer.
Cape May.	Salem.

(2) In Ocean County:

(i) The townships of:

Eagleswood.	Ocean.
Lacey.	Stafford.
Long Beach.	Union.
Little Egg Harbor.	

(ii) The boroughs of:

Barnegat Light.	Ship Bottom.
Beach Haven.	Tuckerton.
Harvey Cedars.	

(e) In the State of Pennsylvania:

(1) The counties of:

Delaware.	Philadelphia.

(2) In Montgomery County:

(i) The townships of:

Springfield.	Abington.
Cheltenham.	Lower Merion.
Lower Moreland (south of the Trenton cutoff of the Pennsylvania Railroad only).	Upper Moreland (south of the Trenton cutoff of the Pennsylvania Railroad only).

(ii) The boroughs of:

Bryn Athyn.	Rockledge.
Narberth.	Jenkintown.

(3) In Bucks County:

(i) The townships of:

Bensalem.	Lower Makefield.
Bristol.	Lower Southampton.
Falls.	Middletown.

(ii) The boroughs of:

Bristol.	Morrisville.
Hulmeville.	Penndel.
Langhorne.	Tullytown.
Langhorne Manor.	Yardley.

(f) In the State of Virginia:

(1) The counties of:

Arlington.	Loudon.
Fairfax.	Prince William.

(2) The cities of:

Alexandria.	Fairfax.
Falls Church.	

§ 1004.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product from a plant to a retail or wholesale outlet (including any delivery through a distribution depot, by a vendor, from a plant store or through a vending machine) except any delivery to a plant.

§ 1004.4 Plant.

"Plant" means the land and buildings together with their surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, processing or packaging of milk or milk products (including filled milk). However, a separate facility used only for the purpose of transferring bulk milk from one tank truck to another tank truck or only as a distribution depot for fluid milk products in transit for route distribution shall not be included under this definition.

§ 1004.5 [Reserved]

§ 1004.6 [Reserved]

§ 1004.7 Pool plant.

Except as provided in paragraph (f) of this section, "pool plant" means a plant (except a producer-handler plant or the plant of a handler pursuant to § 1004.9 (e)) specified in paragraphs (a) through (e) of this section.

(a) A plant from which during the month a volume not less than 50 percent of its receipts described in subparagraph (1) or (2) of this paragraph is disposed of as Class I milk (except filled milk) and a volume not less than 10 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area;

(1) Milk received at such plant directly from dairy farmers (including milk diverted as producer milk pursuant to § 1004.12, by either the plant operator or by a cooperative association, but excluding the milk of dairy farmers for other markets) and from a cooperative in its capacity as a handler pursuant to § 1004.9(c); or

(2) In the case of a plant with no receipts described in subparagraph (1) of this paragraph, receipts of fluid milk products (other than filled milk) from other plants.

(b) Any plant not meeting the conditions of paragraph (a) of this section from which during the month a quantity of fluid milk products (other than filled milk) not less than the applicable percentage (as specified in subparagraph (1) of this paragraph) of such plant's receipts of milk from dairy farmers (including milk diverted as producer milk pursuant to § 1004.12 by either the plant operator or by a cooperative association) and from a cooperative association in its capacity as a handler pursuant to § 1004.9(c) is moved to a plant(s) meeting the percentage disposition requirements specified in paragraph (a) of this section with respect to its total receipts of fluid milk products (other than filled milk) from dairy farmers, cooperative associations as handlers pursuant to § 1004.9(c) and from other plants. However, a plant shall not qualify pursuant to this paragraph in any month in which a greater proportion of its qualifying shipments are made to a plant(s) regulated under another Federal order than to plants regulated under this order.

(1) The applicable percentage for the purpose of this paragraph shall be:

(i) 50 percent for any month of September through February; and

(ii) 40 percent for any month of March through August.

(c) A reserve processing plant which was a pool plant under the Delaware Valley, Upper Chesapeake Bay or Washington, D.C., orders in each of the 12 months preceding the effective date of this order which does not meet the conditions for pool status pursuant to paragraph (a) or (b) of this section shall continue to hold such status in each consecutive succeeding month in which:

(1) It is owned and operated by a handler who also operates a plant qualified pursuant to paragraph (a) of this section;

(2) The handler files a written request with the market administrator on or before the effective date of this order requesting pool status for such plant under this paragraph;

(3) The plant does not qualify as a pool plant pursuant to the provisions of another Federal order;

(4) The plant, in combination with a distributing plant of such handler, meets the performance standards of paragraph (a) of this section;

(5) No plant of such handler is a means for qualification of any other

plant for pooling pursuant to paragraph (b) of this section; and

(6) The handler notifies the market administrator each month, at the time of filing reports pursuant to § 1004.30 in the detail prescribed by the market administrator, with respect to any receipts from dairy farmers delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

(d) A reserve processing plant operated by a cooperative association at least 70 percent of the members of which are producers whose milk is received throughout the month at plants qualified pursuant to paragraphs (a), (b), or (e) of this section (including the milk of such producers which is delivered to such plants by the cooperative in its capacity as a handler pursuant to § 1004.9 (c): *Provided*, That such cooperative shall notify the market administrator each month, at the time of filing reports pursuant to § 1004.30 in the detail prescribed by the market administrator, with respect to any receipts from dairy farmers delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

(e) Subject to the conditions of subparagraph (1) of this paragraph, a plant that was qualified pursuant to paragraph (b) of this section during each of the immediately preceding months of September through February shall remain so qualified during the following months of March through August, unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month of such period during which it does not otherwise qualify pursuant to said paragraph (b):

(1) The automatic pooling status of any plant pursuant to this paragraph shall be canceled beginning on the first day of any month during the March through August period in which another supply plant is qualified for pooling through shipments to the same plants through which such automatic pooling status was acquired.

(f) A plant specified in subparagraph (1) or (2) of this paragraph shall, except as provided in § 1004.32(f) and § 1004.71(c) of this part, be exempt from the provisions of this part:

(1) Any plant qualified pursuant to paragraph (a) of this section which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the Secretary determines that a greater volume of Class I milk, except filled milk, is disposed of from such plant as route disposition in the Middle Atlantic marketing area than is so disposed of in a marketing area regulated pursuant to such other order; or

(2) Any plant subject to the classification and pricing provisions of another order issued pursuant to the Act, notwithstanding its status under this order pursuant to paragraphs (a) or (b) of this section.

§ 1004.8 Nonpool plant.

"Nonpool plant" means a plant other than a pool plant. The following categories of nonpool plants are further defined:

(a) "Other order plant" means a plant that is fully subject to the pricing and payment provisions of another order issued pursuant to the Act.

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

(c) "Partially regulated distributing plant" means a plant which is not a pool plant, a producer-handler plant, an other order plant, or the plant of a handler pursuant to § 1004.9(e), from which fluid milk products in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a plant which is not a pool plant, a producer-handler plant, an other order plant, or the plant of a handler pursuant § 1004.9(e), from which fluid milk products are shipped during the month to a plant qualified under § 1004.7.

§ 1004.9 Handler.

"Handler" means any person described in paragraphs (a) through (f) of this section. Any person in his capacity as the operator of a pool plant or a cooperative association in its capacity as a handler pursuant to paragraph (b) or (c) of this section shall be a "pool handler".

(a) Any person in his capacity as the operator of:

(1) A pool plant;

(2) A partially regulated distributing plant;

(3) An unregulated supply plant; or

(4) An other order plant.

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted in accordance with the provisions of § 1004.12 to a nonpool plant for the account of such cooperative association.

(c) Any cooperative association with respect to the milk of its producer members which is delivered from the farm to the poo. plant of another person in a tank truck owned and operated by or under contract to such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator in writing prior to the first day of the month that the plant operator will be responsible for payment for the milk and is purchasing the milk on the basis of farm weights determined by farm bulk tank calibrations and butterfat tests based on samples taken at the farm. Milk for which the cooperative association is qualified pursuant t. this paragraph shall be deemed to have been received at the location of the pool plant to which such milk is delivered.

(d) A producer-handler.

(e) A governmental agency in its capacity as the operator of a plant with route disposition in the marketing area.

(f) Any other person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant.

§ 1004.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a plant with route disposition in the marketing area, and who meets the conditions of paragraphs (a), (b), and (c) of this section:

(a) The sole source of supply of fluid milk products is his own farm production and transfers of such products from pool plants;

(b) The quantity of fluid milk products received from pool plants during the month does not exceed 10,000 pounds; and

(c) Such person furnishes proof satisfactory to the market administrator that the maintenance and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk products handled (excluding transfers from pool plants), and the operation of the plant are each the personal enterprise of and at the personal risk of such person.

(d) Sections 1004.40 through 1004.45, 1004.50 through 1004.54, 1004.60 through 1004.62, 1004.70 through 1004.79, 1004.85 and 1004.86, 1004.90 through 1004.95, and 1004.110 through 1004.122 shall not apply to a producer-handler.

§ 1004.11 Dairy farmer.

"Dairy farmer" means any person who produces milk which is delivered in bulk to a plant. A dairy farmer shall be a "dairy farmer for other markets" with respect to milk reported pursuant to § 1004.7(c)(6) or the proviso of paragraph (d) of said § 1004.7.

§ 1004.12 Producer.

Subject to the conditions of paragraph (d) and the exceptions of paragraph (e) of this section, "producer" means any person described in paragraphs (a) through (c) of this section.

(a) A dairy farmer with respect to milk which is received at a pool plant directly from the farm including milk received at a pool plant pursuant to § 1004.7 (c) or (d) as milk diverted from a pool plant pursuant to § 1004.7 (a), (b), or (e).

(b) A dairy farmer with respect to milk received by a cooperative association in its capacity as a handler pursuant to § 1004.9(c).

(c) A dairy farmer with respect to milk which is diverted to a nonpool plant (other than a producer-handler plant) in accordance with the conditions of subparagraphs (1) and (2) of this paragraph.

(1) During any month of March through August.

(2) Not more than 10 days production during any month of September through February unless all of the diversions of member and nonmember milk, as the case may be, are pursuant to subdivision (i) or (ii), respectively, of this subparagraph and they fall within the limits prescribed thereunder. If a handler divert-

ing milk pursuant to this subparagraph diverts milk of any dairy farmer in excess of the limits prescribed such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant.

(i) All of the diversions of milk of members of a cooperative association to nonpool plants are for the account of such cooperative association and the amount of member milk so diverted does not exceed 25 percent of the volume of milk of all members of such cooperative association received at all pool plants during such month.

(ii) All of the diversions of milk of dairy farmers who are not members of a cooperative association diverting milk for its own account during the month are diversions by a handler in his capacity as the operator of a pool plant from which the quantity of such nonmember milk so diverted does not exceed 25 percent of the total of such nonmember milk delivered to such handler during the month.

(d) Milk which is diverted in accordance with the provisions of this section shall be deemed to have been received by the handler for whose account it is diverted at a pool plant at the location of the plant from which it is diverted, except that, for the purpose of applying location adjustments pursuant to §§ 1004.52 and 1004.75 and the direct-delivery differential pursuant to § 1004.79, milk which is diverted in the manner described in subparagraph (1), (2), or (3) of this paragraph shall be treated as though received at the location of the plant to which diverted.

(1) Diverted from a pool plant at which no location adjustment credit is applicable to a plant at which a location adjustment credit is applicable.

(2) Diverted from a pool plant at which a location adjustment credit is applicable to a plant at which a greater location adjustment credit is applicable.

(3) Diverted from a pool plant in the direct-delivery zone to a plant outside such direct-delivery zone.

(e) This definition shall not include a:

(1) Producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Dairy farmer for other markets;

(3) Government agency which is a handler pursuant to § 1004.9(e);

(4) Dairy farmer with respect to milk reported as milk diverted to an other order plant if any portion of such dairy farmer's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Dairy farmer with respect to milk physically received at a pool plant as diverted milk from an other order plant if all of the milk so received from such dairy farmer is assigned to Class II and the milk is treated as producer milk under the provisions of such other order.

§ 1004.13 Producer milk.

"Producer milk" means any skim milk or butterfat contained in milk:

(a) Received at a pool plant directly from producers (including milk received at a pool plant pursuant to § 1004.7 (c) or (d) as milk diverted from a pool plant pursuant to § 1004.7 (a), (b), or (e);

(b) Received from producers by a cooperative association in its capacity as a handler pursuant to § 1004.9(c); or

(c) Diverted to a nonpool plant in accordance with the provisions of § 1004.12.

§ 1004.14 Other source milk.

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

(a) Receipts in the form of fluid milk products from any source other than producers, pool plants, or from a cooperative association in its capacity as a handler pursuant to § 1004.9(c);

(b) Receipts (including any Class II product produced in the handler's plant during a prior month) in a form other than as a fluid milk product which are reprocessed, converted, or combined with another product during the month; and

(c) Receipts in a form other than a fluid milk product for which the handler fails to establish a disposition.

§ 1004.15 Fluid milk product.

"Fluid milk product" means milk, skim milk (including concentrated and reconstituted milk or skim milk), buttermilk, cultured buttermilk, flavored milk, milk drinks (plain or flavored), filled milk, and (except ice cream, ice cream mixes, ice milk mixes, milkshake mixes, eggnog, yogurt, condensed or evaporated milk, and any product which contains 6 percent or more nonmilk fat [or oil]) any mixture in fluid form of cream and milk or skim milk containing less than 10 percent butterfat: *Provided*, That when the product is modified by the addition of nonfat milk solids, the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of unmodified product of the same nature and butterfat content.

§ 1004.16 [Reserved]

§ 1004.17 Filled milk.

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

§ 1004.18 Exempt milk.

"Exempt milk" means bulk fluid milk products received at a pool plant or a partially regulated distributing plant from the plant of a handler pursuant to § 1004.9(e) for processing and packaging and for which an equivalent quantity of packaged fluid milk products is returned to such handler during the month.

§ 1004.19 Certified milk.

"Certified milk" is milk which is produced, packaged, and sold under the label of certified milk in accordance with the rules and regulations promulgated by the American Association of Medical Milk Commissions, Inc.

§ 1004.20 Cooperative association.

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

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

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

§ 1004.30 Reports of receipts and utilization.

(a) On or before the eighth day after the end of each month each handler with respect to each of his pool plants shall report for the month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) The quantities of skim milk and butterfat contained in:

(i) Reciepts of producer milk (including such handler's own production);

(ii) Receipts of fluid milk products from other pool plants and milk received from a cooperative association for which it is a handler pursuant to § 1004.9(c); and

(iii) Receipts of other source milk;

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

(3) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately in-area route disposition, except filled milk, and filled milk route disposition in the area;

(b) Each handler who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of milk from dairy farmers shall be reported in lieu of producer milk; such report shall include a separate statement showing the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(c) Each producer-handler and each handler pursuant to § 1004.9(e) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe; and

(d) On or before the eighth day after the end of each month, each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1004.9 (b) or (c) as follows:

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

(2) Utilization of skim milk and butterfat diverted to nonpool plants; and

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler.

§ 1004.31 [Reserved]

§ 1004.32 Other reports.

(a) Each pool handler shall report to the market administrator in detail and on forms prescribed by the market administrator as follows:

(1) On or before the 25th day after the end of the month for each pool plant, his producer payroll for such month which shall show for each producer:

(i) His name and address;

(ii) The total pounds of milk received from such producer;

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

(iv) The net amount of the handler's payment, together with the price paid and the amount and nature of any deduction;

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

(b) Promptly after a producer moves from one farm to another, or starts or resumes deliveries to a pool handler, the handler shall file with the market administrator a report stating the producer's name and post office address, the health department permit number, if applicable, the date on which the changes took place, and the farm and plant location involved.

(c) In making payments to producers pursuant to § 1004.73(a)(2), or to a cooperative association pursuant to § 1004.73(b), each pool handler shall furnish such producer or cooperative association with respect to each of its producer members from whom the handler received milk during the month, a written statement showing:

(1) The month and the identity of the handler and the producer;

(2) The total pounds and average butterfat test of milk delivered by the producer;

(3) The minimum rate at which payment to such producer is required under § 1004.73(a)(2);

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The nature and amount of any deductions made in payment due such producer; and

(6) The net amount of the payment to the producer.

(d) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1004.76(b) shall report the same information as required in paragraph (a) of this section with respect to dairy farmers from whom he receives milk.

(e) On or before the 20th day after the end of the month, each handler pursuant to § 1004.9(f) shall report to the market administrator, in the detail and on forms prescribed by the market administrator, all transactions wherein milk was bought or dealt in, giving the following information:

(1) The name and address of any cooperative association or producer for whom the handler by either purchase or direction caused milk of producers to be moved to a plant;

(2) The total pounds of milk involved in the transaction, and the average butterfat content of such milk; and

(3) Such other information with respect to such transaction as the market administrator may prescribe.

(f) Each handler operating a plant described in § 1004.7(f) shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of other reports specified in this section or in § 1004.30) and allow verification of such reports by the market administrator.

CLASSIFICATION OF MILK

§ 1004.40 Classes of utilization.

Subject to the conditions set forth in §§ 1004.41 through 1004.44, all skim milk and butterfat required to be reported by a handler pursuant to §§ 1004.30 and 1004.32 shall be classified as follows:

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

(1) Disposed of as a fluid milk product except as provided in paragraph (b) (2), (3), or (7) of this section;

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

(3) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of for livestock feed;

(3) Contained in fluid milk products which are dumped, if the handler gives the market administrator such advance notice of intent to dump as the market administrator may prescribe;

(4) Contained in inventory of fluid milk products in bulk which are on hand at the end of the month;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1004.41(b)(1), but not to exceed the following:

(i) Two percent of producer milk received at a pool plant; plus

(ii) One and one-half percent of milk received at a pool plant from a cooperative association in its capacity as a handler pursuant to § 1004.9(c); plus

(iii) One and one-half percent of milk received at a pool plant in bulk tank lots from other pool plants; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the handler (and by the operator of such other order plant if such receipt is fully subject to the classification and pricing provisions of such other order); plus

(v) One and one-half percent of receipts from dairy farmers for other markets pursuant to § 1004.11 and receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of milk moved in bulk tank lots from a pool plant to other plants; and plus

(vii) One-half of 1 percent in receipts of producer milk by a cooperative association in its capacity as a handler pursuant to § 1004.9(c);

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1004.41(b)(2);

(7) Disposed of in bulk fluid milk products to manufacturing establishments such as bakeries, candy factories, soup factories, and similar establishments at which fluid milk products were used only in the manufacture of food products other than milk products; and

(8) In skim milk represented by the nonfat milk solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1004.15.

§ 1004.41 Shrinkage.

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

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

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat in receipts described in § 1004.40(b)(5); and (2) skim milk and butterfat in other source milk, exclusive of that specified in § 1004.40(b)(5)

§ 1004.42 Classification of transfers and diversions.

Skim milk and butterfat in the form of any fluid milk product shall be classified:

(a) As Class I milk if diverted from a pool plant pursuant to § 1004.7 (a), (b), or (e) to a pool plant pursuant to § 1004.7 (c) or (d), or transferred from a pool plant or by a cooperative association as a handler pursuant to § 1004.9(c) to a pool plant, unless Class II utilization is indicated by the transferee and transferor handlers (or by the handler if such transaction is between two pool plants of the same handler) in their reports pursuant to § 1004.30(a) for the month, subject to the conditions of subparagraphs (1), (2), and (3) of this paragraph:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1004.44(a)(10) and the corresponding step of § 1004.44(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1004.44(a)(5), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1004.44(a)(9) or (10), and the corresponding steps of § 1004.44(b), the skim milk and butterfat

so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if transferred or diverted from a pool plant or delivered by a cooperative association in the capacity as a handler pursuant to § 1004.9 (c) to a handler pursuant to § 1004.9(e);

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is not an other order plant, a producer-handler plant, or the plant of a handler pursuant to § 1004.9(e), unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1004.30 for the month within which such transaction occurred;

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

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

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, and thereafter pro rata to receipts from other order plants;

(ii) Any route disposition in the marketing area of an other order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, and thereafter pro rata to receipts from pool plants and other order plants not regulated by such order;

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

(iv) Any remaining receipts from pool plants or other order plants shall be assigned to Class II: *Provided*, That if on inspection of the books and records of the nonpool plant the market administrator finds that the remaining unassigned receipts at such plant exceed the available Class II utilization, the transfer shall be classified as Class I up to the amount of such excess.

(e) As follows, if transferred to another order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

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

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

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1004.40.

§ 1004.43 General rules.

(a) Each month, the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted pursuant to § 1004.30(a) by each handler and compute the total pounds of skim milk and butterfat, respectively, in each class at each of the plants of such handler, and the total pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1004.9 (b) and (c) and was not received at a pool plant.

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products plus all the water originally associated with such solids.

§ 1004.44 Classification of producer milk.

After making the computations pursuant to § 1004.43, the market administrator each month shall determine the classification of milk received from producers by each cooperative association handler pursuant to § 1004.9 (b) and (c) which was not received at a pool plant, and the classification of milk received from producers and from cooperative association handlers pursuant to § 1004.9(c) at each pool plant for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1004.40(b)(5);

(2) Subtract from the total pounds of skim milk in Class I, the pounds of skim milk in receipts of certified milk in packaged form and receipts of exempt milk;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (5) (vi) of this paragraph as follows:

(i) From Class II milk, the lesser of the pounds remaining, or 2 percent of such receipts; and

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

(4) Except for the first month this order is effective, with respect to plants which in the immediately preceding month were either unregulated plants or pool plants under Orders 3 or 16, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of packaged fluid milk products on hand at the beginning of the month;

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

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

(ii) Receipts of fluid milk products from dairy farmers for other markets pursuant to § 1004.11 and from unidentified sources;

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

(iv) Receipts (other than exempt milk) of fluid milk products from a handler pursuant to § 1004.9(e);

(v) Receipts of reconstituted skim milk in filled milk from unregulated supply plants;

(vi) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor plant and is not assigned under this step at a plant regulated under another market pool order;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in any case to exceed the pounds of skim milk remaining in Class II.

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (exclusive of transfers between pool plants of the same handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, receipts from pool plants of other handlers, from a cooperative association in its capacity as a handler pursuant to § 1004.9(c), and in receipts in bulk from other order plants; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in remaining receipts of fluid milk products in bulk from an other order plant which are in excess of similar movements to such plant, if such receipts were classified and priced pursuant to the other order and if Class II utilization was requested by the operator of such plant and the transferee handler, but not in excess of the pounds of skim milk remaining in Class II milk;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products in bulk (and for the first month this order is effective, in packaged fluid milk products not subtracted pursuant to subparagraph (4) of this paragraph) on hand at the beginning of the month;

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

(9) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants and from other order plant(s) if not classified or priced pursuant to the order regulating such plant, that were not subtracted pursuant to subparagraph (6) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(10) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk in remaining receipts of fluid milk products in bulk from other order plants (except receipts from other order plants not classified and priced pursuant to the order regulating such plant), in excess in each case of similar movements to the same plant, pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1004.45(b); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case, the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1004.9(c) according to the classification assigned pursuant to § 1004.42(a); and

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

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1004.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) On or before the 15th day after the end of each month, report to each cooperative association which so requests, the class utilization of milk purchased from such association or delivered to the pool plant(s) of each handler by producers who are members of such cooperative association. For the purpose of this report, the milk so purchased or received shall be allocated to each class in the same ratio as all producer milk received by such handler during such month;

(b) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1004.44(a)(10) and the corresponding step of § 1004.44(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(c) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1004.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(d) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

CLASS PRICES

§ 1004.50 Class prices.

Subject to the provisions of § 1004.52 the minimum class prices per hundredweight of milk containing 3.5 percent butterfat for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.78.

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

Month	*Amount*
January	+$0.05
February	+.04
March	−.03
April	−.07
May	−.10
June	−.09
July	+.05
August	+.12
September	+.08
October	+.08
November	+.08
December	+.08

(1) Multiply by 4.2 the Chicago butter price specified in § 1004.51;

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

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

§ 1004.51 Basic formula price.

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

§ 1004.52 Location differentials to handlers.

(a) For that milk received from producers and from a cooperative association in its capacity as a handler pursuant to § 1004.9(c) at a pool plant located 55 miles or more by shortest highway distance from the city hall in Philadelphia, Pa., and also 75 miles or more by the shortest highway distance from the nearer of the zero milestone in Washington, D.C., or the city hall in Baltimore, Md. (all such distance to be determined by the market administrator), and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the Class I price shall be reduced at the rate of 1.5 cents per 10-mile distance or fraction thereof that such plant location is from the nearest of such basing points.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which such Class I disposition exceeds 95 percent of the sum of receipts at such plant from producers, cooperative associations pursuant to § 1004.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, and from dairy farmers for other markets pursuant to § 1004.11. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply: *Provided,* That for the purposes of this paragraph, transfers from a pool plant to a second pool plant which are in turn transferred to a third pool plant shall be treated as though the transfer was direct from the originating plant to the plant of final receipt.

§ 1004.53 Announcement of class prices and producer butterfat differential.

On or before the fifth day of each month the market administrator shall publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following:

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

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

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

§ 1004.54 Equivalent prices or indexes.

If for any reason a price or index specified by this part for use in computing class prices or other purposes is not reported or published in the manner described in this part, the market administrator shall use a price or index determined by the Secretary to be equivalent or comparable with the factor which is specified.

UNIFORM PRICES

§ 1004.60 Pool obligation of each pool handler.

The net pool obligation of each pool handler for each pool plant, and of each cooperative association handler pursuant to § 1004.9 (b) and (c) with respect to milk which was not received at a pool plant, shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of milk received from a cooperative association as a handler pursuant to § 1004.9(c) and allocated pursuant to § 1004.44(a)(11) and the corresponding step of § 1004.44 (b) and the quantity of producer milk in each class, as computed pursuant to § 1004.44(c), by the applicable class prices (adjusted pursuant to § 1004.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1004.44(a)(12) and the corresponding step of § 1004.44(b) by the applicable class prices adjusted by the applicable differentials pursuant to §§ 1004.52, 1004.74, and 1004.79;

(c) Add the amounts computed under subparagraphs (1) and (2) of this paragraph:

(1) Multiply the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(7) and the corresponding step of § 1004.44(b) for the current month;

(2) Multiply the difference between the applicable Class I price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(4) and the corresponding step of § 1004.44(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result shall be a minus amount.

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1004.44(a)(5) and the corresponding step of § 1004.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1004.44 (a)(5) (v) and (vi) and the corresponding step of § 1004.44(b) the Class I price shall be adjusted to the location of the transferor plant but not less than the Class II price; and

(e) Add an amount equal to the value at the Class I price of skim milk and butterfat assigned to Class I pursuant to § 1004.44(a)(9) and the corresponding step of § 1004.44(b) (excluding receipts from partially-regulated distributing plants for which disposition a specific allocation is made to Federal order receipts from this or any other order) adjusted for the location of the nearest plant from which such types of receipts were received.

§ 1004.61 Computation of weighted average price and uniform prices for base milk and excess milk.

(a) For each month the market administrator shall compute the weighted average price per hundredweight of milk received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1004.60 for all handlers who filed the reports prescribed by § 1004.30 for the month and who

made the payments pursuant to § 1004.71 for the preceding month;

(2) Add an amount equal to the total value of the location differentials computed pursuant to § 1004.75;

(3) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to subparagraph (1) of this paragraph by 5 cents;

(4) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

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

(i) The total hundredweight of producer milk included pursuant to subparagraph (1) of this paragraph; and

(ii) The total hundredweight for which a value is computed pursuant to § 1004.60(e).

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

(b) For each month after February 1971 the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(1) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to paragraph (a) of this section as follows:

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

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

(iii) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in subparagraph (1) of this paragraph by the total hundredweight of such milk and round to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations of subparagraphs (1) through (4) of paragraph (a) of this section subtract an amount computed by multiplying the hundredweight of milk specified in § 1004.61(a)(5)(ii) by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in subparagraph (2) of this paragraph by the hundredweight of excess milk, from the amount computed pursuant to subparagraph (3) of this paragraph;

(5) Divide the amount calculated pursuant to subparagraph (4) of this paragraph by the total hundredweight of base milk for handlers included in these computations: *Provided*, That if the resulting price should exceed the Class I price by more than the amount deducted pursuant to subparagraph (6) of this paragraph the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to subparagraph (1) of this paragraph, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to subparagraph (5) of this paragraph. The resulting figure shall be the uniform price for base milk.

§ 1004.62 Announcement of weighted average price and uniform prices for base milk and excess milk.

On or before the 13th day of each month, the market administrator shall publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the weighted average price and uniform prices for base milk and excess milk computed pursuant to § 1004.61 for the preceding month.

Payments for Milk

§ 1004.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1004.71, 1004.76, and 1004.77 and out of which he shall make all payments from such fund pursuant to §§ 1004.72 and 1004.77: *Provided*, That the market administrator shall offset the payment due to a handler against payment due from such handler.

§ 1004.71 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1004.60 for such handler;

(b) The sum of:

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to § 1004.9(c) at the applicable uniform price(s) pursuant to § 1004.61 adjusted by location differentials, less in the case of a cooperative association on milk for which it is a handler pursuant to § 1004.9(c), the amount due from other handlers pursuant to § 1004.73(d), exclusive of differential butterfat values; and

(2) The value at the weighted average price plus 5 cents, adjusted by the applicable location differential on nonpool milk pursuant to § 1004.75(b) (not to be less than the value of the Class II price) with respect to other source milk for which values are computed pursuant to § 1004.60(e).

(c) Each handler operating a plant specified in § 1004.7(f)(1) if such plant is subject to the classification and pricing provisions of another order which provides for individual-handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in the marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class II price.

§ 1004.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1004.71(b) exceeds the amount computed pursuant to § 1004.71(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1004.73 Payments to producers and to cooperative associations.

(a) Except as provided in (b) and (d) of this section, each pool handler shall make payment as specified in subparagraphs (1) and (2) of this paragraph to each producer from whom milk is received.

(1) On or before the last day of each month at not less than the Class II price for the preceding month per hundredweight for his deliveries of producer milk during the first 15 days of the month; and

(2) On or before the 20th of the following month at not less than the uniform price for base milk computed pursuant to § 1004.61(b)(3) through (6) with respect to base milk received from such producer and not less than the excess price determined pursuant to § 1004.61(b) (1) and (2) for excess milk received from such producers subject to the following adjustments: *Provided*, That from the effective date hereof through February 1971, such payment shall be at not less than the weighted average price with respect to milk received from producers, also subject to the following adjustments:

(i) Proper deductions authorized in writing by such producers;

(ii) Partial payments made pursuant to subparagraph (1) of this paragraph;

(iii) The butterfat differential computed pursuant to § 1004.74; and

(iv) Less the location differential received pursuant to § 1004.75: *Provided*, That if by such date such handler has

not received full payment from the market administrator pursuant to § 1004.72 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section; and

(c) In the case of milk received by a handler from a cooperative association in its capacity as the operator of a pool plant such handler shall on or before the second day prior to the date on which payments are due individual producers, pay to such cooperative association for milk so received during the month, an amount not less than the value of such milk computed at the applicable class prices for the location of the plant of the buying handler;

(d) Each handler who receives milk from a cooperative association handler pursuant to § 1004.9(c), shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at the rate specified in paragraph (a) (1) of this section; and

(2) A final payment equal to the value of such milk at the uniform price(s) adjusted by the applicable differentials pursuant to §§ 1004.74 and 1004.75, less the amount of partial payment on such milk.

§ 1004.74 Butterfat differential.

In making the payments to producers and cooperative associations required pursuant to § 1004.73, each handler shall add for each one-tenth of 1 percent of average butterfat content above 3.5 percent, or may deduct for each one-tenth of 1 percent of average butterfat content below 3.5 percent, as a butterfat differential an amount per hundredweight which shall be computed by the market administrator as follows: Multiply by 0.115 and round to the nearest one-tenth cent the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago, as reported by the Department for the month.

§ 1004.75 Location differentials to producers and on nonpool milk.

(a) Subject to the exception pursuant to § 1004.12(d), for that milk received from producers and from cooperative association handlers pursuant to § 1004.9 (c) at a pool plant located 55 miles or more from the city hall in Philadelphia, Pa., and also at least 75 miles from the nearer of the zero milestone in Washington, D.C., or the city hall in Baltimore, Md. (all distances to be the shortest highway distance as determined by the market administrator), the uniform price for base milk computed pursuant to § 1004.61(b) shall be reduced 1.5 cents for each 10 miles distance or fraction thereof that such plant is from the nearest of such basing points.

(b) For purposes of computations pursuant to §§ 1004.71 and 1004.72 the weighted average price shall be reduced at the rate set forth in paragraph (a) of this section applicable at the location of the nonpool plant(s) from which the milk was received with respect to other source milk for which a value is computed pursuant to § 1004.60(e).

§ 1004.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producers-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1104.30(b) and 1004.32(d) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1004.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant, a cooperative association as a handler pursuant to § 1004.9 (b), or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1004.60(e) and a credit in the amount specified in § 1004.71 (b)(2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1004.30(b) and 1004.32(d) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1004.7(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for milk (approved by a duly constituted health authority for fluid disposition) received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants; cooperative associations in their capacity as handlers pursuant to § 1004.9(b), and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

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

§ 1004.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of

any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1004.78 [Reserved]

§ 1004.79 Direct-delivery differential.

For producer milk received at a plant located within 55 miles of the city hall in Philadelphia, Pa., the handler in making payments to producers and cooperative association handlers pursuant to § 1004.9(c), in addition to any amounts required by other provisions of this part, shall pay 6 cents per hundredweight of milk so received.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1004.85 Assessment for order administration.

As his pro rata share of the expense of administration, each handler shall pay to the market administrator on or before the 20th day after the end of the month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe with respect to milk handled during the month as follows:

(a) Each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1004.9(c), and a cooperative association as the operator of a pool plant with respect to milk transferred in bulk to a pool plant) with respect to his receipts of producer milk (including such handler's own-farm production, milk received from a cooperative association pursuant to § 1004.9 (c), and milk transferred in bulk from a pool plant owned and operated by a cooperative association) and other source milk allocated to Class I pursuant to § 1004.44(a) (5) and (9) and the corresponding step of § 1004.44(b);

(b) Each handler in his capacity as the operator of a partially regulated distributing plant with respect to his route disposition in the marketing area in excess of his receipts of Class I milk from pool plants, cooperative associations as handlers pursuant to § 1004.9(b), and other order plants assigned to such disposition.

§ 1004.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, is making payments directly to producers for milk (other than milk of his own production) pursuant to § 1004.73(a) shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator on or before the 20th day after the end of the month. Such money shall be expended by the market administrator to provide market information and to verify the weights, samples and tests of milk of producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 1004.73(a) as are authorized by such producers on or before the 18th day after the end of each month and pay such deductions to the cooperative rendering such services.

BASE-EXCESS PLAN

§ 1004.90 Base milk.

"Base milk" means milk received from a producer by a pool handler which is not in excess of such producer's daily base computed pursuant to § 1004.92 multiplied by the number of days in such month on which such producer's milk was so received: *Provided*, That with respect to any producer on every-other-day delivery, the day of nondelivery prior to a day of delivery, although such prior day is in the preceding month, shall be considered as a day of delivery for purposes of this paragraph.

§ 1004.91 Excess milk.

"Excess milk" means milk received from a producer by a pool handler which is in excess of base milk received from such producer during the month.

§ 1004.92 Computation of base for each producer.

After February 1971, for each month of the year, the market administrator shall compute, subject to the rules set forth in § 1004.93, a base for each producer described in paragraphs (a) through (d) of this section by dividing the applicable quantity of milk receipts specified in such paragraph by 153 (by 154 in the case of a producer on every-other-day delivery schedule who delivered August 1) less the number of days, if any, during the applicable base-forming period of August through December for which it is shown that the day's production of milk of such producer was not received by a pool handler as described in the applicable paragraphs (a) through (d) of this section under which such producer's base is computed: *Provided*, That in no event shall the number of days used to compute a producer's base pursuant to this section be less than 120.

(a) For any producer, except as provided in paragraphs (b) through (e) of this section, the quantity of milk receipts shall be the total pounds of producer milk received by all pool handlers from such producer during the preceding months of August through December;

(b) Except as provided in paragraph (c) of this section, for any producer whose milk was received at a plant which first became a pool plant after the beginning of the preceding August–December period, which plant was a pool plant for at least 120 days during such period, the quantity of milk receipts to be used in the computation of such producer's base shall be the total pounds of milk received from such dairy farmer at such plant during the entire August–December period.

(c) For any producer who on August 1 was an Order 2 (New York-New Jersey) producer and who held such status in all or part of the 2 months of August and September and who otherwise was a producer only under this part for all of the remaining August through December period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer by pool handlers under both orders throughout the August–December period.

(d) For any producer whose milk was received during the preceding August through December period at a plant which became a pool plant pursuant to § 1004.7(a) during or after such August through December period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer during such August–December period by pool handlers as producer milk and at such plant as a nonpool plant.

(e) Any producer who made no qualifying milk deliveries during the base-forming period of August through December, or who relinquishes his established base pursuant to § 1004.94, shall have a base reflecting the percentage of his average daily deliveries of producer milk each month as set forth in the following table. A new base is earned on the basis of his milk deliveries during the subsequent August through December period.

Month	Percentage of production as base
January and February	60
March through June	50
July	60
August through November	70
December	60

§ 1004.93 Base rules.

After February 1971, the following rules shall apply in connection with the establishment of bases:

(a) A base computed pursuant to paragraph (a) through (d) of § 1004.92 (except as provided in paragraph (e) of said section) shall be effective for the subsequent months of March through February, inclusive.

(b) A base computed pursuant to paragraphs (a) through (d) of § 1004.92 may be transferred only in its entirety to another dairy farmer and only upon discontinuance of milk production because of the entry into military service of the baseholder.

(c) Base transfers shall be accomplished only through written application to the market administrator on forms prescribed by the market administrator and shall be signed by the baseholder and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, except as provided in paragraph (e), the entire base only is transferrable and only upon receipt of such application signed by all joint holders.

(d) If a producer operates more than one farm and milk is received from each

at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1004.9 (b) or (c), he shall establish a separate base with respect to producer milk delivered from each such farm.

(e) Only one base shall be allocated with respect to milk produced by one or more persons where a dairy farm is jointly owned or operated: *Provided*, That in the case of a base established jointly, if a copy of the partnership agreement setting forth as a percentage of the total interest of the partners in the base is filed with the market administrator before the end of the base-forming period, then upon termination of the partnership agreement each partner will be entitled to his stated share of the base to hold in his own right or to transfer in conformity with the provisions of paragraph (b) or (c) of this section (including transfer to a partnership of which he is a member). Such termination of partnership shall become effective as of the end of any month during which an application for such division of base signed by each member of such partnership is received by the market administrator.

(f) Two or more producers with bases may combine such bases upon the formation of a bona fide partnership operating from one farm. Such a combination shall be considered a joint base under paragraph (e) above.

(g) Subject to approval by the market administrator, the name of the baseholder may be changed to that of another member of the baseholder's immediate family but only under circumstances where the base would be applicable to milk production from the same herd and on the same farm.

§ 1004.94 Relinquishing a base.

After February 1971, a producer holding an established base can, upon notification to the market administrator, relinquish his established base and be paid pursuant to the provisions of § 1004.92(e) beginning with the first day of the month in which such notification is received by the market administrator and extending until March 1, next.

§ 1004.95 Announcement of base.

On or before February 25 of each year, the market administrator shall notify each producer, the handler receiving his milk and the cooperative association of which he is a member of the daily base established by such producer;

ADVERTISING AND PROMOTION PROGRAM

§ 1004.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1004.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1004.111 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1004.113(b) is authorized one Agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers that have elected not to combine pursuant to § 1004.113(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for each full 5 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1004.112 Term of office.

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

§ 1004.113 Selection of Agency members.

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

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

(b) For purposes of this program, cooperative associations may elect to combine their participating membership and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1004.111 and paragraph (a) of this section.

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

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

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

§ 1004.114 Agency operating procedure.

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

§ 1004.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1004.110;

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

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1004.110 and 1004.117.

§ 1004.116 Duties of the Agency.

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

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

(b) Develop programs and projects pursuant to §§ 1004.110 and 1004.117;

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

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

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

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

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

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

§ 1004.117 Advertising, research, education, and promotion program.

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

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

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

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

§ 1004.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1004.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

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

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

§ 1004.119 Personal liability.

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

§ 1004.120 Procedure for requesting refunds.

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

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

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

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

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

§ 1004.121 Duties of the market administrator.

Except as specified in § 1004.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1004.113(c);

(b) Set aside the amounts subtracted under § 1004.61(a)(3) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

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

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to §1004.61(a)(3).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1004.120 or make payment to any State on behalf of any producer for which specific authorization has been received pursuant to § 1004.120(d). Such refund or payment, as the case may be, shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1004.61(a)(3) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1004.110 through 1004.122).

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

§ 1004.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1004.70.

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

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

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[7 CFR Parts 1030, 1049]

[Docket No. AO-361-A5, AO-319-A18]

MILK IN THE CHICAGO REGIONAL AND INDIANA MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Chicago Regional and Indiana marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions

thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Des Plaines, Ill., on November 18, 1971, pursuant to notice thereof which was issued October 28, 1971 (36 F.R. 20981).

The material issues on the record of the hearing relate to:

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

2. The specific terms and provisions necessary to implement such program under the Chicago Regional and Indiana orders.

FINDINGS AND CONCLUSIONS

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

1. *Adoption of an advertising and promotion program.* The Chicago Regional and Indiana orders should be amended to provide for an advertising and promotion program in each market. The program for each market should be administered by an agency organized by producers and producers' cooperative associations and financed by producer moneys deducted from the pool proceeds.

Public Law 91–670 (Title I, § 101) approved January 11, 1971, amended the Agricultural Marketing Agreement Act by adding a new paragraph (I) in section 608c(5) to provide that a Federal milk order may, with the approval of producers on the market, include provisions for "establishing or providing for the establishment of research and development projects, and advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products, to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order."

The adoption of such a program under the Chicago Regional order was proposed by Central Milk Producers Cooperative, a common marketing agency for 16 cooperatives whose member producers supply a substantial majority of the milk pooled under the order. The proposed adoption of an advertising and promotion program under the Indiana order was made by the Hoosier Milk Marketing Agency, Inc., a federation consisting of three cooperatives whose producer members supply a substantial majority of the milk pooled under the order. Thus, in each market the adoption of an advertising and promotion program has wide support among producer organizations.

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

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

The principal reasons cited by proponents for the establishment of an advertising and promotion program under each of the orders were:

(1) *Decline in per capita consumption.* There has been a long-term decline in per capita consumption of milk and milk products in the United States. Per capita civilian disposition of milk solids in all dairy products combined declined 9 percent over the last decade, 61.8 pounds in 1970 compared to 67.9 pounds in 1960. For 8 of the years from 1960 to 1970 per capita disposition of milk solids was less than during the prior year. Per capita sales of cheese and frozen dairy products have increased slightly in recent years, but not by enough to offset the decline in sales of the remaining dairy products. Sales of fluid milk products, which account for about half of the disposition of all dairy products, has tended to decline on a per capita basis.

Average monthly packaged Class I sales by handlers regulated under the Chicago Regional order declined from 296.75 million pounds in 1969 to 285.65 million pounds in 1970. For the Indiana market there was a slight increase in Class I sales from 1969 to 1970, 102.52 million pounds per month in 1969 compared to 104.12 million pounds per month in 1970. In 1971 Class I sales by Chicago Regional handlers continued to decline while Class I sales by Indiana handlers continued to increase. For the period January–October Chicago Regional handlers Class I sales were 0.8 percent less in 1971 than in 1970. For the same period Indiana handlers Class I sales increased by 1.8 percent from 1970 to 1971. (Official notice is taken of "Federal Milk Order Market Statistics—October 1971.")

Recent expenditures for advertising and promotion by producers supplying the Indiana market have been about three times more per hundredweight of Class I sales than has been the case for the Chicago Regional market. This could account for the different Class I sales trends in these markets. Proponents contend that a declining trend in per capita consumption of milk and dairy products can be diminished or reversed by increased expenditures for advertising and promotion of milk and dairy products.

(2) *The shifting trend from home delivery to store sales.* There has been a steadily increasing trend toward sales of milk out of stores and a decline in home deliveries of milk. Home delivery sales now account for less than 20 percent of total packaged fluid milk sales. Consequently, there is little direct contact with consumers by sales persons employed by processors of dairy products as was the case prior to the shift to selling milk primarily through chain stores.

The sale of milk through stores has placed it in more direct competition with other foods and beverages purchased by consumers. Most of such other competing foods and beverages are widely promoted and advertised. Much of the milk sold through stores is packaged under private label brands of such stores and receives little promotion and advertising by either the processors or stores. It is proponents' position, therefore, that in such a competitive environment, dairy farmers must do a more comprehensive and effective job of promoting milk and milk products.

(3) *Insufficient funds for promotional programs.* In the Chicago Regional market, Central Milk Producers Cooperative set aside $400,000 for use in dairy promotion in the year ended August 1971. Effective September 1971, Central Milk Producers Cooperative's promotion expenditure was increased by two-thirds. In addition, many dairy farmers have supported dairy promotion through contributions to the American Dairy Association, the national office of which contributed $90,000 to nonadvertising program promotion in the Chicago market for the year 1971.

In the Indiana market cooperatives spent about $240,000 during the year ending August 1971 for educational programs and in the promotion and advertising of fluid milk and dairy products. In addition, dairy farmers contributed $160,000 in support of advertising and educational programs through the American Dairy Association and National Dairy Council, for a total of $400,000.

Proponents contend that such expenditures in these markets are below the optimum effective promotion level of 5 cents per hundredweight that they believe is supported by certain marketing research studies.[1] Based on 1970 marketings current advertising and promotion

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

expenditures are equivalent to a rate of 2.2 cents per hundredweight of producer milk in the Indiana market, but only 0.9 cent in the Chicago market.

In view of the foregoing, it is concluded that a program essentially as producers purpose, but with specified modifications discussed below, should be adopted in each of these markets.

2. *Terms and provisions.* The proposed rate of 5 cents per hundredweight on producer milk, suggested by proponents, is a reasonable assessment on the marketings of producers for promoting the consumption of the milk they produce and is adopted. Such assessment rate represents less than 1 percent of the uniform prices paid to producers in these markets. The 5 cents per hundredweight rate, however, should provide annual totals of about $3,500,000 under the Chicago Regional order and $800,000 under the Indiana order for use on producer-sponsored advertising and promotion programs.

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

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

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

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

The Act states that the Agency "* * * may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order." The guidelines concerning this matter are set forth in the amendments to the two orders. Under the terms of such amendments, the Agency will develop and submit to the Secretary for approval programs or projects that may provide for:

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

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

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

Under such authority proponents envisioned the Agency would utilize the services of the American Dairy Association, Dairy Council, Milk Foundation, and other such organizations. However, the extent to which the Agency may wish to employ the services of existing organizations engaged in milk promotional activities is a matter to be determined by the Agency.

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

Under the Chicago Regional order each cooperative that represents at least 1.5 percent of the participating producers (producers who have not requested refunds) will be authorized an Agency representative, plus one additional Agency representative for each full 5 percent of the participating producers, in excess of 1.5 percent, that such cooperative represents. For the purpose of meeting the percentage requirements any cooperative association, including a cooperative having less than the required 1.5 percent of the producers participating in the program, may elect to combine its participating membership with that of one or more other cooperatives.

The participating producer members of any cooperative association(s) having less than the required 1.5 percent that elects not to combine, as discussed above, and nonmember producers, together will be authorized one Agency representative if such producers constitute 1.5 percent of the total number of participating producers under the order, plus one additional Agency representative for each additional full 5 percent that such producers constitute of all participating producers. For the purpose of the Agency's initial formation, all producers under the order would be considered as participating producers.

With the present number and size of cooperatives in the market, the above procedure will result in a maximum of 24 members on the Agency. Eleven different cooperatives representing over 90 percent of the producers on the market will be eligible to select 21 of the Agency representatives. In addition, should cooperatives with less than 1.5 percent of the producers elect to combine, two additional representatives of cooperatives could be placed on the Agency.

The above procedure is modified slightly from the proposed procedure set forth in the hearing notice. Under that procedure a cooperative would be required to have at least a full 5 percent of the participating producers to be eligible to name an Agency representative. Such procedure, however, would result in only five cooperatives, representing three-fourths of the producers, being eligible to name agency representatives without combining for such purpose. The procedure adopted assures broader producer representation on the Agency. Yet it does not result in too large an Agency for a market with over 16,000 producers.

Because of the smaller number of producers on the market, proponents proposed that the Agency for the Indiana market be about half the size of the Agency for the Chicago Regional market. Specifically they proposed that a cooperative represent a full 10 percent of the participating producers to be eligible to name an Agency representative. Such procedure, however, would result in only two of the seven cooperatives being large enough to independently select a representative. If on the other hand a procedure like the one adopted for the Chicago Regional market, but with minimums of 3 and 10 percent of the total participating producers for the initial and additional representatives were adopted, five of the seven cooperatives would be eligible to independently name representatives. Moreover, about 90 percent of the producers belong to cooperatives having at least 3 percent of the producers on the market compared to 70 percent belonging to cooperatives with 10 percent or more producers.

This modified procedure will assure broader producer representation on the Agency for the Indiana market and should therefore be adopted. With the present structure of producer membership in cooperatives on the market, this procedure will result in an Agency of 11 members, 10 being selected by cooperatives and one by nonmember producers.

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

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

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

and member producers together are authorized.

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

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

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

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

Proponents proposed a geographic basis for apportioning the number of representatives among the participating nonmember producers and participating members of the smaller cooperatives (less than the required minimum percent of all participating producers) who elect not to combine.

With the procedure adopted herein, about 90 percent of the producers in each market would be represented by cooperatives. Thus, there would be only one Agency representative to be selected by referendum in the Indiana market and one or two in the Chicago market. Any provision for geographic division of producers for referendum purposes in this circumstance has little, if any, significance.

The term of office of each member of the Agency as herein adopted is 1 year, or until a replacement is designated by the cooperative association or is elected. This term of office is necessary because of the annual reapportionment of representation on the basis of producer participation in the program.

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

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

Proponents suggested that to insure a high degree of agreement on the actions of the Agency more than a simple majority approval would be appropriate. The Agency may wish to so provide in the rules of its conduct. With the program depending on voluntary participation, however, presumably the Agency will strive to reach general agreement among its members on its actions, irrespective of the percentage of approval set as being mandatory.

The Agency's duties set forth in the order are generally necessary for the discharge of its responsibilities. It is intended that activities undertaken by the Agency shall be confined to those reasonably necessary to carry out its responsibilities as prescribed under the program.

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

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

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

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

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

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

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

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

It is possible that the Agency may find it desirable to enlist the aid of individuals with special talents who might be helpful in program and project planning by virtue of their particular knowledge, skills, or expertise on matters directly involved with the advertising and promotion programs. Provision is made, therefore, whereby the Agency, at its pleasure, may establish an advisory committee(s) of persons other than Agency members. Such a committee(s) may include, but would not necessarily be limited to, persons drawn from universities, land grant colleges, or extension services, public officials, and others in the dairy industry. Such committee(s) could make recommendations and participate in the deliberations of the Agency but would have no voting rights.

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

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

It is, of course, appropriate and necessary that Agency representatives be reimbursed for reasonable expenses incurred in attending meetings. This could involve the establishment by the Agency of per diem and mileage rates and would include expenses for meals and lodging. Proponents suggested that such expenses should be the responsibility of the individuals or of the organizations represented on the Agency. It would be unreasonable, however, to require a nonmember producer representative of the Agency to bear such expenses incurred in the interest of all producers on the market.

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

Because Agency members are handling funds otherwise payable to producers they should have assurance that they will not be personally liable for the impact of their official acts except for willful misconduct, gross negligence, or criminal acts.

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

It is possible that at some later date producers could request termination of the program, or that such provisions could be terminated by the Secretary on a finding that they no longer tend to effectuate the purposes of the Act. For example, proponents suggested that this may be appropriate if producer participation in the program falls below a percentage needed to make the program successful.

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

Proponents suggested that the market administrator's expenses in connection with the advertising and promotion program be charged against the administrative fund derived from assessments on handlers. Such funds, however, should not be used for costs directly related to the administration of the advertising and promotion program. The program is sponsored by producers on a voluntary basis; therefore, any expenses attendant to its administration appropriately should be borne by producers.

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

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

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

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

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

Refunding on a quarterly basis, rather than on the basis of each monthly reporting period, will result in significant savings in administrative cost by reducing by eight the number of times each year the market adminstrator would be required to make refunds.

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

The refund request procedure as proposed (e.g., a request filed with the market administrator during the first 15 days of the month preceding the beginning of each calendar quarter) could not accommodate new producers who might not wish to participate in the program during their first few months on the market. Therefore, until the initial quarter for which a new producer could comply with the regular refund request procedure, such producer should be granted a refund on his marketings upon proper application filed with the market administrator at any time prior to the next refund notification period.

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

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

Proponents suggested that the order should permit the Agency to authorize producers the option to designate in writing the crediting of not more than 2 cents per hundredweight of milk marketed by such individual producers to a State or area unit of the American Dairy Association. Such procedure would involve significant administrative expense and thereby detract from one of the principal benefits of adopting an advertising and promotion program under the order—the elimination of setting aside advertising funds on the basis of individual producer accounts by making a single marketwide assessment in the computation of the uniform price. Moreover, the Agency has authority to decide the proportion of available program funds it wishes to use on programs of various units of the American Dairy Association or any other similar organization.

Proponents suggested that the order require a public listing of nonparticipating producers at any time such producers

amount to as much as 10 percent of all producers on the market. They contend this is necessary for a proper evaluation of the operation and acceptance of the program. Since this is a voluntary program, there should be no provision for public listing or disclosure by the market administrator regarding the status of individual producers that possibly could cause embarrassment to a producer who elects not to be part of the program. It will be encumbent upon the participants, through their Agency, to conduct programs in a manner and of a nature to set the climate for maximum participation by producers.

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

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

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

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

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

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

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Chicago Regional and Indiana marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. In § 1030.60, paragraph (b)(5) is revised as follows:

§ 1030.60 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I milk price (after deducting the location adjustment rate for the zone in which the nonpool plant is located) substract its value at the uniform price at the same location plus 5 cents or at the Class II price, whichever is higher and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

2. In § 1030.71, a new paragraph (d) is added as follows:

§ 1030.71 Computation of uniform price.

* * * * *

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

* * * * *

3. In § 1030.84, paragraph (b)(2) is revised as follows:

§ 1030.84 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1030.70 (e).

4. Immediately following § 1030.88, a new centerhead and new §§ 1030.100 through 1030.112 are added as follows:

Advertising and Promotion Program

§ 1030.100 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1030.111 (b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1030.101 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1030.103(b) with 1.5 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency representative plus one additional Agency representative for each additional full 5 percent of the participating member producers it represents. Cooperative associations with less than 1.5 percent of the total participating producers that have elected not to combine pursuant to § 1030.103(b), and participating producers who are not members of cooperatives are authorized to select from such

group, in total, one Agency representative for the first full 1.5 percent plus one additional Agency representative for each additional full 5 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1030.102 Term of office.

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

§ 1030.103 Selection of Agency members.

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

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

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 1.5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1030.101 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 1.5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

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

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

§ 1030.104 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting unless the Agency determines that more than a simple majority shall be required.

§ 1030.105 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1030.100;

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

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1030.100 and 1030.107.

§ 1030.106 Duties of the Agency.

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

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

(b) Develop programs and projects pursuant to §§ 1030.100 and 1030.107 of this part;

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

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

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

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

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

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

§ 1030.107 Advertising, research, education, and promotion program.

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

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

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

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

§ 1030.108 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1030.111(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

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

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

§ 1030.109 Personal liability.

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

§ 1030.110 Procedure for requesting refunds.

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

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

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

(c) a dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the

remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1030.111 Duties of the market administrator.

Except as specified in § 1030.106, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1030.103(c);

(b) Set aside the amounts subtracted under § 1030.71(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

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

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1030.71(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1030.110. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1030.71(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1030.100 through 1030.112).

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

§ 1030.112 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1030.83.

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. In § 1049.62, paragraph (a)(5) is revised as follows:

§ 1049.62 Obligations of a handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents or the Class II price, whichever is greater, and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price;

* * * * *

2. In § 1049.71, a new paragraph (c–1) is added as follows:

§ 1049.71 Computation of uniform prices.

* * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * *

3. In § 1049.82, paragraph (b)(2) is revised as follows:

§ 1049.82 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1049.70(e).

4. Immediately following § 1049.88, a new centerhead and new §§ 1049.100 through 1049.112 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1049.100 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1049.111(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1049.101 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1049.103(b) with 3 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency representative plus one additional Agency representative for each additional full 10 percent of the participating member producers it represents. Cooperative associations with less than 3 percent of the total participating producers that have elected not to combine pursuant to § 1049.103(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for the first full 3 percent plus one additional Agency representative for each additional full 10 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1049.102 Term of office.

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

§ 1049.103 Selection of Agency members.

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

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

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 3 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1049.101 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 3 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

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

may be, and also shall specify the number of representatives to be selected.

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

§ 1049.104 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

§ 1049.105 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1049.100;

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

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1049.100 and 1049.107.

§ 1049.106 Duties of the Agency.

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

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

(b) Develop programs and projects pursuant to §§ 1049.100 and 1049.107;

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

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

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

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

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

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

§ 1049.107 Advertising, research, education, and promotion program.

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

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

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

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

§ 1049.108 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1049.111(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

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

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

§ 1049.109 Personal liability.

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

§ 1049.110 Procedure for requesting refunds.

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

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

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

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

§ 1049.111 Duties of the market administrator.

Except as specified in § 1049.106, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1049.103(c);

(b) Set aside the amounts subtracted under § 1049.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

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

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1049.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.110. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1049.71(c–1) for such

calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1049.100 through 1049.112).

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

§ 1049.112 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1049.81.

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

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-3020 Filed 2-28-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 37]

[Docket No. 11741; Notice No. 72-5]

REVISION OF WEIGHT MARKING REQUIREMENT

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending § 37.7(d)(3) of the Federal Aviation Regulations to revise the general weight marking requirement applicable to articles for which a TSO authorization has been issued.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before May 29, 1972, will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 37.7(d)(3) requires TSO articles to be marked with the weight of the article to the nearest one-tenth of a pound. Bendix Avionics Division of the Bendix Corp. has filed a petition for rule making requesting that § 37.7(d)(3) be amended to permit a weight marking tolerance of 0.2 pounds or 3 percent, whichever is greater. Bendix states that the present requirement imposes an undue burden on the TSO manufacturer, particularly with respect to articles that weigh approximately 50 pounds since scale calibration and tolerances must be held to well under 2 percent. Bendix further states that as a result of this tight tolerance each article must be individually weighed and this creates nameplate engraving problems and requires special handling.

Under the present regulation the weight marking tolerance is only 1.6 ounces and this tolerance applies regardless of the weight of the article. Thus, as the weight of an article increases the allowed tolerance becomes a smaller percentage of the overall weight thereby increasing the difficulty in producing the article within the present weight tolerance. The FAA believes that any increase in aircraft weight resulting from the increased TSO weight tolerance proposed by Bendix will be minimal and will not adversely affect the weight and balance analysis of the aircraft or affect flight safety. Therefore, the FAA proposes to amend § 37.7(d)(3) to permit TSO articles to be marked with their weight to within 0.2 pounds or 3 percent of the articles' weight, whichever is greater.

In consideration of the foregoing, it is proposed to amend § 37.7(d)(3) of the Federal Aviation regulations to read as hereinafter set forth.

§ 37.7 General rules governing holders of TSO authorizations.

* * * * *

(d) * * *

(3) The nominal weight of the article which must be within ±0.2 pounds or ±3 percent of the actual weight, whichever is greater.

* * * * *

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on February 18, 1972.

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

[FR Doc.72-2977 Filed 2-28-72;8:47 am]

[14 CFR Part 39]

[Airworthiness Docket No. 72-SW-12]

AEROSTAR MODELS 600 AND 601 SERIES AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Aerostar Models 600 and 601 series airplanes. There have been instances where fuel siphoned past the filler cap on the fuselage tank and flowed rearward into the baggage compartment on Aerostar Models 600 and 601 series airplanes. This could have resulted in a fire or explosion due to the proximity of ignition sources. Since this condition is likely to exist or develop in other airplanes of the same design, the proposed airworthiness directive would require inspections of the fuel filler neck for a bent flange, and painting an indexing stripe on the cap and fuselage of these aircraft.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Federal Aviation Administration, Regional Counsel, Post Office Box 1689, Fort Worth, TX 76101. All communications received on or before March 24, 1972, will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, TX, for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

AEROSTAR: Applies to all Models 600 and 601 airplanes, serial numbers 60-0001 and up, and 61-0001 and up, certificated in all categories.

Compliance required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent siphoning of fuel from the fuselage fuel tank and flowing into the baggage compartment, thereby creating a fire hazard, accomplish the following:

a. Inspect the fuselage fuel tank filler neck for a bent flange adjacent to the 7/16-wide slot in the upper left position (See Fig. 1).

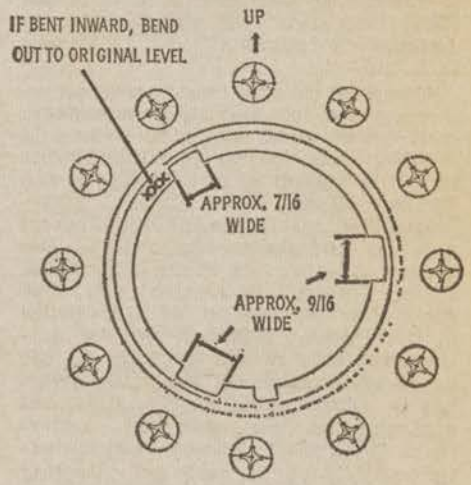

FIGURE 1.

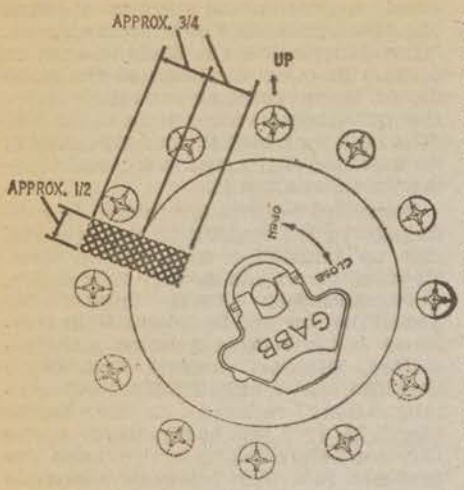

FIGURE 2.

If bent, straighten to its original level.

b. Replace the cap taking care that the narrow tang on the cap enters the narrow slot in the upper left position of the neck. When the cap is inserted propertly, the locking handle will be in the position shown in Fig. 2.

c. Paint an indexing stripe on the cap and fuselage side to the dimensions shown in Fig. 2. This stripe may be in any position around the cap as desired. The color of the stripe must contrast with the paint on the fuselage in this area.

d. The compliance time for this AD may be adjusted up to a maximum of 20 hours to coincide with the aircraft's annual or 100 hour scheduled inspection.

Issued in Fort Worth, Tex., on February 16, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-2864 Filed 2-28-72;8:45 am]

[46 CFR Part 510]

[Airspace Docket No. 72-GL-3]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at French Lick, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Room 18, 3158 Des Plaines Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the French Lick Municipal Airport, French Lick, Ind., based on a privately-owned NDB. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at French Lick, Ind. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

FRENCH LICK, IND.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the French Lick Municipal Airport (latitude 38°30'26" N., longitude 86°37'59" W.) and within 3 miles each side of the 076° bearing from the French Lick Municipal Airport extending from the 6½-mile radius to 8 miles northeast.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., February 7, 1972.

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

[FR Doc.72-2978 Filed 2-28-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-8]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Peebles, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Room 18, 3158 Des Plaines Avenue, Des Plaines, IL 60018.

A new private use instrument approach procedure based on the York VOR has been developed for the General Electric Airport, Peebles, Ohio. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Peebles, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

PEEBLES, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of General Electric Airport (latitude 38°55'25" N., longitude 83°19'40" W.).

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on February 4, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-2979 Filed 2-28-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SW-11]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Laredo, Tex., control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this

time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace & Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Laredo, Tex., control zone is amended by deleting "to 16 miles northwest of VORTAC, within 2 miles each side of the Laredo VORTAC 149°" and substituting therefor "to 16 miles northwest of the VORTAC; within 2 miles each side of the Laredo ILS localizer northwest course extending from the ILS localizer site (latitude 27°36'12.6" N., longitude 99°35'50.2" W.) to 7 miles northwest; within 2 miles each side of the VORTAC 149°".

Alteration of the control zone will provide a small additional amount of controlled airspace necessary to accommodate the ILS RWY 15 approach procedure proposed at Laredo International Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on February 18, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-2980 Filed 2-28-72;8:47 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 510]

[Docket No. 72-4]

INDEPENDENT OCEAN FREIGHT FORWARDERS

Proposed Licensing Requirements; Further Enlargement of Time To File Comments

FEBRUARY 23, 1972.

Upon request of representatives of certain freight forwarder associations, and good cause appearing, time within which interested persons may submit views and comments in response to the notice of proposed rule making in this proceeding (37 F.R. 678; January 15, 1972) is enlarged to and including March 27, 1972. The Bureau of Hearing Counsel shall file reply to comments on or before April 7, 1972. Answers to Hearing Counsel's replies shall be submitted on or before April 14, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 72-3022 Filed 2-28-72;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release IC-6998]

FAIR AND EQUITABLE TREATMENT OF SERIES TYPE INVESTMENT COMPANY SHAREHOLDERS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of Rule 18f-2 [17 CFR 270.18f-2] under the Investment Company Act of 1940 (Act), as amended by the Investment Company Amendments Act of 1970 (1970 Act), Public Law 91-547 [84 Stat. 1413]. The proposed rule would implement the provisions of the second sentence of section 18(f)(2) of the Act [15 U.S.C. 80a-18(f)(2)] which was added by the 1970 Act [84 Stat. 1421]. The amendment authorizes the Commission to adopt rules to require registered investment companies of the series type, as a requisite for taking action on a matter requiring shareholder action, to obtain the approval of the holders of each individual class or series of its stock which would be affected by such matter. The proposed rule has special provisions concerning advisory contracts subject to section 15(a) [of the Act], and investment policies, subject to section 13 [of the Act], including exceptions from certain provisions of these sections. Also, an exemption from the separate voting requirements of the rule would be provided for the submission of independent public accountants to shareholders required by section 32(a) of the Act.

Section 18(f)(1) of the Act [15 U.S.C. 80a-18(f)(1)] makes it unlawful for any registered open-end investment company to issue or sell any senior security. However, section 18(f)(2) [of the Act] excludes from the definition of senior security "a class or classes or a number of series of preferred or special stock each of which is preferred over all other classes or series in respect of assets specifically allocated to that class or series." Investment companies issuing such securities are commonly known as "series companies." The individual series of such a company are, for all practical purposes, separate investment companies. Each series of stock represents a different group of stockholders with an interest in a segregated portfolio of securities. Shareholders of series companies generally have only one vote and matters requiring shareholder action are generally decided by vote of a specified percentage of the outstanding securities of such companies, irrespective of series. In this connection, both the Senate and House Committee reports accompanying bills which eventually became the 1970 Act pointed out that

> * * * matters affecting the interest of holders of shares of a particular series are voted on by the holders of shares of all existing series and such vote may be controlled by the holders of an unaffected series. In effect, the shareholders of different series whose interest may be inconsistent are lumped together.[1]

In order to remedy this situation and thereby to insure fair and equitable treatment of the holders of each class or series of stock of such companies, the 1970 Act amended section 18(f)(2) of the Act to give the Commission specific authority by rule, regulation or order to require that any matter affecting shareholders of any series of shares issued by such companies be voted upon separately by such series.[2] The legislative history of this amendment contemplates that the election of directors may be included among those matters upon which a separate vote may be required.[3] The legislative history also states that it is not intended that any rule would relieve a company of any requirements with respect to voting that may be applicable under State law.[4]

The proposed rule would implement this amendment by providing in paragraph (a) that any matter required to be submitted to all holders of the outstanding voting securities of a series company shall not be deemed to have been effectively acted upon unless approved by a majority of the holders of the outstanding voting securities of each class or series of stock affected by such matter. Generally, this will include proposed changes in investment policy, the

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[1] Senate Rep. 91-184, 91st Cong., first session (1969), p. 38 (hereafter referred to as "Senate Report"); and House Rep. 91-1382, 91st Cong., second session (1970), p. 28 (hereafter referred to as "House Report").

[2] The text of the mandatory language of section 18(f)(2) of the Act reads as follows: "For the purpose of insuring fair and equitable treatment of the holders of the outstanding voting securities of each class or series of stock of such company, the Commission may by rule, regulation, or order direct that any matter required to be submitted to the holders of the outstanding voting securities of such company shall not be deemed to have been effectively acted upon unless approved by the holders of such percentage (not exceeding a majority) of the outstanding voting securities of each class or series of stock affected by such matter as shall be prescribed in such rule, regulation or order."

[3] In this regard, the Senate and House Committee Reports state: "Although it is contemplated that any such rule may provide that approval of stockholders holding a certain percentage of stock is necessary for the election of directors, it is not intended that the authority granted by this amendment would be used to require that a company set up groups of individuals for each series with functions similar to those of the company's overall board of directors." Senate Report, pp. 38-39, and House Report, p. 28.

[4] See Senate Report, p. 39, and House Report, p. 28.

election of directors, approval of advisory contracts and matters required by State law (e.g., approval of mergers and reorganizations) or otherwise to be submitted for shareholder aproval.

Paragraph (b) of the proposed rule provides that, for the purposes of paragraph (a), a class or series of stock will be deemed to be affected by such a matter unless it is clear that (1) the interests of each class or series in the matter are identical, or (2) the matter does not affect any interest of such class or series. Therefore, in matters not affecting all series alike, a registered series investment company could not take any action requiring shareholder approval without the affirmative vote of the holders of a majority of the outstanding voting securities of each series of stock which would be affected by such action. Of course, in the event that a particular series would not be affected by a matter requiring shareholder action, a vote of the majority of the outstanding voting securities of such unaffected series would not be required by paragraph (a). For the purposes of the rule, a majority of the outstanding voting securities of a class or series would be computed in the manner set forth in section 2(a)(42) of the Act (15 U.S.C. 80a–2(a)(42)).

Paragraph (c) of the proposed rule would modify paragraph (a) as applied to investment advisory contracts which must be submitted for shareholder approval. This paragraph is intended to prevent the holders of a particular series from exercising a veto power over the advisory contract as it pertains to other series which have approved the contract.[5] This paragraph would also afford a series company an exemption[6] from the requirement in section 15(a) of the Act (15 U.S.C. 80a–15(a)) that a majority of the outstanding voting securities of the investment company approve an advisory contract. This would enable the advisory contract to be operative with respect to a series whose holders have approved the contract without also having to obtain the approval of a majority of the outstanding voting securities of the investment company, irrespective of series.[7]

In order to achieve these purposes, paragraph (c) would provide that a matter relating to the submission of an advisory contract for which section 15(a) [of the Act] requires shareholder approval shall be deemed to be effectively acted upon for the purposes of the Act with respect to any series which approves such matter notwithstanding (1) that such matter has not been approved by the holders of a majority of the outstanding voting securities of any other series affected by such matter and (2) that such matter has not been approved by the vote of a majority of the outstanding voting securities of such company.

The proposed rule would not require that each series have a separate investment adviser. However, the rule would prevent the holders of such particular series from having to accept an investment adviser or advisory contract which they reject. In this connection, the board of directors of the investment company, in the exercise of its fiduciary obligations, would be required to plan and take appropriate actions to protect the interests of the holders of any series which does not approve an advisory contract, e.g., obtain the services of a more suitable investment adviser to manage the portfolio of such series or renegotiate the terms of the advisory contract.

Paragraph (d) of the proposed rule would provide similar treatment for matters relating to the approval of changes in investment policies of series companies under section 13 of the Act (15 U.S.C. 80a–13).

Paragraph (e) of the proposed rule would provide an exemption from the separate voting requirements of paragraph (a) for the submission of an independent public accountant to shareholders required by section 32(a) of the Act. Such matter is not one in which series would generally have inconsistent interests since their primary concern is obtaining the services of a competent accountant who will give them an accurate picture of the financial condition of their series and company.

The operation of the proposed rule is demonstrated in the following examples:

(1) Assume that an investment company issues two series of stock, one series for capital growth and the other for income. The company solicits proxies on behalf of present directors who are up for re-election. Since one series may be dissatisfied with the operations of the investment company as it relates to that series, the election of the board of directors is generally the type of matter in which each series might have an interest which is different from or inconsistent with that of other series, within the meaning of paragraph (b) of the rule. Therefore, paragraph (a) would require that a majority of the holders of the outstanding voting securities of both the income and growth series vote in favor of the re-election of the board of directors before such election could be deemed effective.

(2) Assume that changes have been made in the investment advisory contract with the same investment company, thus requiring the contract to be submitted to shareholders for approval. Also assume that the company has had an unfavorable investment record on its income series and a relatively favorable record on its growth series. There is a substantial possibility that the holders of the income series might have an interest in the approval of the contract and the adviser which is inconsistent with the interest of the holders of the growth series. Thus, the provisions of paragraph (a) of the proposed rule would require that the contract be approved by a majority of the holders of each series. However, paragraph (c) would permit the advisory contract to become operative as to the growth series if a majority of the holders of such series were to approve the contract, even though a majority of the holders of the income series does not so approve. In addition, because of the exemption from section 15(a) of the Act, the contract could become effective as to the growth series even though a majority of the outstanding voting securities of the company does not approve the contract. Of course, the advisory contract would not become effective as to the income series. The text of the proposed Commission action is indicated below:

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended by adding a new § 270.18f–2 reading as follows:

§ 270.18f–2 Fair and equitable treatment for holders of each class or series of stock of series investment companies.

(a) For purposes of this § 270.18f–2 a series company is a registered open-end investment company which, in accordance with the provisions of section 18(f)(2) of the Act, issues two or more classes or series of preferred or special stock each of which is preferred over all other classes or series in respect of assets specifically allocated to that class or series. Any matter required to be submitted by the provisions of the Act or of applicable State law, or otherwise, to the holders of the outstanding voting securities of a series company shall not be deemed to have been effectively acted upon unless approved by the holders of a majority of the outstanding voting securities of each class or series of stock affected by such matter.

(b) For the purposes of paragraph (a) of this § 270.18f–2, a class or series of stock will be deemed to be affected by such a matter, unless it is clear that (1) the interests of each class or series in the matter are identical, or (2) the matter does not affect any interest of such class or series.

(c) With respect to the submission of an investment advisory contract to the holders of the outstanding voting securities of a series company for the approval required by section 15(a) of the Act, such matter shall be deemed to be effectively acted upon with respect to any class or series of securities of such company if a majority of the outstanding voting securities of such class or series vote for the approval of such matter, notwithstanding (1) that such matter has not been

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[5] Since, in the ordinary case, the holders of one series might have an interest in an advisory contract which is inconsistent with or different from another series, paragraph (a), without the provisions of paragraph (c), would require that a majority of the holders of each series approve the contract before it could become effective.

[6] Section 6(c) of the Act (15 U.S.C. 80a–6(c)) authorizes the Commission by rules and regulations, to exempt conditionally or unconditionally any person, security, or tranaction or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

[7] If applicable State law requires approval by the outstanding voting securities of the series company, this rule would not affect that requirement.

approved by the holders of a majority of the outstanding voting securities of any other class or series affected by such matter and (2) that such matter has not been approved by the vote of a majority of the outstanding voting securities of such company.

(d) With respect to the submission of a change in investment policy to the holders of the outstanding voting securities of a series company for the approval required by section 13 of the Act, such matter shall be deemed to have been effectively acted upon with respect to any class or series of such company if a majority of the outstanding voting securities of such class or series vote for the approval of such matter, notwithstanding (1) that such matter has not been approved by the holders of a majority of the outstanding voting securities of any other class or series affected by such matter and (2) that such matter has not been approved by the vote of a majority of the outstanding voting securities of such company.

(e) The submission to shareholders of the selection of the independent public accountant of a series company required by section 32(a) of the Act shall be exempt from the separate voting requirement of paragraph (a) of this § 270.18f-2.

The proposed rule would be adopted pursuant to the authority granted to the Commission in sections 6(c), 13, 15(a), 18(f)(2), 32(a), and 38(a) of the Investment Company Act. All interested persons are invited to submit, in writing, views and comments with respect to the proposed amendments to Ronald F. Hunt, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before March 31, 1972. All communications with respect to the proposed amendments should refer to File No. S7-427. Such communications will be available for public inspection.

(Secs. 6(c), 13, 15(a), 18(f)(2), 32(a), 38(a); 54 Stat. 800, 811, 812, 817, 838, 841; 15 U.S.C. 80a-6(c), 80a-13, 80a-15(a), 80a-18(f)(2), 80a-37(a); Sec. 10, Public Law 91-547, 84 Stat. 1421)

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

FEBRUARY 17, 1972.

[FR Doc.72-3015 Filed 2-28-72;8:50 am]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DES 72-37]

PROPOSED PROJECT TO DEMONSTRATE FEASIBILITY OF HYDRAULIC BACKFILLING OF MINE VOIDS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Mines, Department of the Interior, has prepared a draft environmental statement concerning the conduct of a demonstration project to test the Dowell hydraulic injection process for backfilling mine voids. Written comments are invited for a period of 30 days after publication of this notice.

The proposed project to be conducted includes the crushing and water slurry injection of 300 thousand cubic yards of coal mine refuse into flooded and dry mine voids in the Clark and New County coal beds beneath Scranton, Pa. Sufficient information would be developed to evaluate the economic feasibility of the process and to identify the technical problems inherent in this method for mine subsidence control.

Single copies of the draft statement are available from:

Director, Bureau of Mines, Room 4614, Department to the Interior, Washington, D.C. 20240.

Chief, Environmental Affairs Field Office, Veterans Building, 19 North Main Street, Wilkes Barre, PA 18701.

In requesting this document, please refer to the statement number above.

WILLIAM W. LYONS,
Deputy Assistant Secretary of the Interior.

FEBRUARY 18, 1972.

[FR Doc.72-3058 Filed 2-28-72;8:52 am]

[DES 72-30]

DRAFT MASTER PLAN AND PRELIMINARY WILDERNESS PROPOSAL YELLOWSTONE NATIONAL PARK, WYO., IDAHO, AND MONT.

Notice of Availability of Draft Environmental Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared draft environmental statements for a Draft Master Plan and a Preliminary Wilderness Proposal for Yellowstone National Park, Wyo., Idaho, and Mont., and invites written comment within thirty (30) days of this notice.

The draft environmental statements consider the management and public use of Yellowstone National Park; and the establishment of wilderness comprising about 1,963,000 acres within Yellowstone National Park. The park is located in Park and Teton Counties, Wyo.; in Fremont County, Idaho; and in Gallatin and Park Counties, Mont.

Copies are available from and for inspection at the following locations: Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102; and Yellowstone National Park, Yellowstone National Park, Wyo. 82190.

Dated: February 25, 1972.

WILLIAM W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-3064 Filed 2-28-72;8:52 am]

[DES 72-31]

DRAFT MASTER PLAN AND PRELIMINARY WILDERNESS PROPOSAL, GRAND TETON NATIONAL PARK, WYO.

Notice of Availability of Draft Environmental Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared draft environmental statements for a Draft Master Plan and a Preliminary Wilderness Proposal for Grand Teton National Park, Wyo., and invites written comment within thirty (30) days of this notice.

The draft environmental statements consider the management and public use of Grand Teton National Park; and the establishment of wilderness comprising about 110,700 acres within the Grand Teton National Park, Teton County, Wyo.

Copies are available from or for inspection at the following locations: Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102; and Grand Teton National Park, Box 67, Moose, WY 83012.

Dated: February 25, 1972.

WILLIAM W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-3065 Filed 2-28-72;8:52 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 26(71)-7]

ROLAND HAGN

Order Denying Export Privileges for an Indefinite Period

In the matter of Roland Hagn, 27 rue Mozart, 78 Fontenay-le-Fleury, France, Respondent.

The Director, Compliance Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above-named respondent all export privileges for an indefinite period because the said respondent, without good cause being shown, failed to furnish answers to interrogatories and failed to furnish certain records and other writings specifically requested. This application was made pursuant to § 388.15 of the Export Control Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an Indefinite Denial Order was referred to the Compliance Commissioner, Bureau of International Commerce, who, after consideration of the evidence, has recommended that the application be granted. The report of the Compliance Commissioner and the evidence in support of the application have been considered.

The evidence presented shows that the respondent Roland Hagn is a resident of Fontenay-le-Fleury, near Paris, France; that he is a consulting engineer in activities connected with electronics; that in May 1970 he placed an order with a French supplier for U.S.-origin strategic electronic equipment valued at approximately $57,000; and that said equipment was exported from the United States in December 1970 and was subsequently diverted to an unauthorized destination. The evidence presented further shows that in May 1971 the respondent ordered from a U.S. supplier $7,000 worth of strategic electronic items. The Compliance Division is conducting an investigation into these transactions to ascertain with respect to the December 1970 exportation whether there were knowing violations of the Export Control Regulations, and if so, who are the parties responsible and with respect to the May 1971 transaction, whether such violations were intended.

It is impracticable to subpoena the respondent, and relevant and material interrogatories relating to his participation in the above transactions were served on him pursuant to § 388.15 of the Export Control Regulations. The respondent also, pursuant to said section, was requested to furnish certain specific documents relating to said transactions. Said respondent has failed to furnish responsive answers to said interrogatories or to furnish the documents requested, and he has not shown good cause for such failure. I find that an order denying export privileges to said respondent for an indefinite period may properly be entered under § 388.15 of the Export Control Regulations and that such an order is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administration Act of 1969.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to his agents, employees, representatives, and partners, and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall remain in effect until the respondent provides responsive answers, written information and documents in response to the interrogatories heretofore served upon him or gives adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the Export Control Regulations.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondent.

VII. In accordance with the provisions of § 388.15 of the Export Control Regulations, the respondent may move at any time to vacate or modify this Indefinite Denial Order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested shall be held before the Compliance Commissioner, at Washington, D.C., at the earliest convenient date.

This order shall become effective on February 29, 1972.

Dated: February 22, 1972.

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

[FR Doc.72-3091 Filed 2-28-72;9:59 am]

National Oceanic and Atmospheric Administration

[Docket No. S-573]

GARY L. HUNTER AND ETHEL P. HUNTER

Notice of Loan Application

FEBRUARY 23, 1972.

Gary L. Hunter and Ethel P. Hunter, Post Office Box 254, Depoe Bay, OR 97341, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 51 feet in length, to engage in the fishery for salmon, albacore, shrimp, bottomfish, and Dungeness crab off the coasts of California, Oregon, and Washington, and for crabs off the coast of Alaska.

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.

JOSEPH W. SLAVIN,
Acting Director.

[FR Doc. 72-3003 Filed 2-28-72;8:49 am]

[Docket No. S-574]

WILBERT SELDERS

Notice of Loan Application

FEBRUARY 23, 1972.

Wilbert Selders, Route 2, Box 828, Coos Bay, OR 97420, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 48 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.

JOSEPH W. SLAVIN,
Acting Director.

[FR Doc.72-3004 Filed 2-28-72;8:49 am]

Office of the Secretary

PRODUCTION OF SOLUBLE COFFEE

Solicitation of Certified Information

In accordance with the Agreement Concerning Brazilian Exports of Soluble Coffee to the United States dated April 2, 1971 (TIAS 7118, 22 UST 654), the U.S. Government is soliciting information from manufacturers of soluble coffee about their domestic production of soluble coffee during calendar years 1970 and 1971. Under this agreement, the Brazilian Coffee Institute will allocate among U.S. manufacturers of soluble coffee the right to purchase specified quantities of green coffee free of the Brazilian export tax, on the basis of

their average share of soluble coffee production in the United States. U.S. manufacturers of soluble coffee wishing to share in the special allocation are requested to supply the following information for the calendar years 1970 and 1971, separately:

1. Pounds of green coffee roasted by the respondent for the production of soluble coffee in the United States.

2. Location of plant or plants at which the above coffee was roasted.

The accuracy of such information must be certified by an authorized officer of the respondent subject to the penalties provided in 18 U.S.C. 1001 for making any false statements in any matter within the jurisdiction of a Department of the United States. Information so provided will be made available to the public for inspection and transmitted to the Government of Brazil as a basis for its allocations. In order that the information can be forwarded to the Government of Brazil as soon as possible, it must be received by certified mail no later than 15 working days from the date of publication of this notice in the FEDERAL REGISTER. Responses should be addressed to:

OIP 280, U.S. Department of Commerce, Washington, D.C. 20230. Attention: Coffee.

Dated: February 22, 1972.

STANLEY NEHMER,
Deputy Assistant Secretary for Resources, U.S. Department of Commerce.

[FR Doc.72-3002 Filed 2-28-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 7837]

NEOMYCIN SULFATE STERILE POWDER

Drugs for Human Use; Drug Efficacy Study Implementation; Follow-up Notice

In a notice (DESI 7837) published in the FEDERAL REGISTER of May 13, 1970 (35 F.R. 7464), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Mycifradin Sulfate containing neomycin sulfate sterile powder; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49001 (NDA 7-837).

2. Neomycin sulfate sterile powder; Philadelphia Laboratories, Inc., 9815 Roosevelt Boulevard, Philadelphia, Pa. 19114 (NDA 11-596).

3. Neomycin sulfate sterile powder; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 60-366).

4. Neomycin sulfate sterile powder; Pure Laboratories, Inc., 59 Intervale Road, Parsippany, N.J. 07054 (No. NDA number).

The notice stated that the drugs were regarded as probably effective, possibly effective, and lacking substantial evidence of effectiveness for the various labeled indications.

Based upon a reevaluation of these preparations, the Commissioner finds it appropriate to amend the announcement of May 13, 1970, as follows:

1. The effectiveness classification of the following indications is changed from probably effective to effective: For intramuscular use in the treatment of urinary tract infections due to susceptible strains of the following organisms: *Pseudomonas aeruginosa, Klebsiella pneumoniae, Proteus vulgaris, Escherichia coli,* and *Enterobacter aerogenes.*

2. The labeling guidelines are changed to read as follows:

NEOMYCIN SULFATE STERILE POWDER FOR INTRAMUSCULAR USE ONLY

WARNING

In Patients With Impaired Kidney Function or With Prerenal Azotemia, Systemic Use of Neomycin Sulfate May Result in Irreversible Deafness and/or Renal Damage, Even With Conventional Doses. Use Only With Extreme Caution in the Presence of Impaired Renal Function.

Parenteral neomycin sulfate should not be given concurrently or in series with other ototoxic and/or neurotoxic drugs such as streptomycin, kanamycin, polymyxin B, colistin and viomycin, because the toxicity may be additive.

The neurotoxicity of neomycin can result in respiratory paralysis from neuromuscular blockade, especially when the drug is given to patients simultaneously receiving anesthetics or muscle relaxants.

Usage in Pregnancy

The safety of this drug in human pregnancy has not been established.

DESCRIPTION

Neomycin is an antibiotic obtained from the metabolic products of the actinomycete *Streptomyces fradiae.*

ACTIONS

(Data on absorption, metabolism, and antimicrobial activity to be supplied by the manufacturer. All quantitative references to the drug should be qualified by appropriate nomenclature, e.g. neomycin sulfate or neomycin base.)

If the Kirby-Bauer method of disc susceptibility is used, a 30 mcg. disc should give a zone of 17 mm. or more when the organism is susceptible to neomycin.

INDICATIONS

Neomycin sulfate may be indicated in treatment of urinary tract infections due to susceptible strains of the following organisms: *Pseudomonas aeruginosa, Klebsiella pneumoniae, Proteus vulgaris, Escherichia coli,* and *Enterobacter aerogenes.* Because of its potential toxicity it should be reserved for hospitalized cases in which no other antimicrobial agent is effective.

CONTRAINDICATIONS

Neomycin sulfate is contraindicated in patients known to be sensitive to it.

WARNINGS

(See "Warning" box.)

PRECAUTIONS

Neomycin sulfate is potentially nephrotoxic. Urinary examinations for albumin, casts, and cells should be made before starting therapy and daily; BUN and audiometric determinations should also precede therapy and be repeated during neomycin sulfate administration. Inadequate renal function interferes with neomycin excretion, producing high blood levels which increase the risk of both ototoxicity and nephrotoxicity (see "Warning" box).

The possibility of acute toxicity increases in premature infants and neonates.

Avoid concurrent use of curariform muscle relaxant drugs and drugs which potentiate neuromuscular blocking effects (ether, tubocurarine, succinylcholine, gallamine, decamethonium and sodium citrate). If signs of respiratory paralysis appear, respiration should be assisted as required, and the drug discontinued.

As with other antibiotics, use of this drug may result in overgrowth of nonsusceptible organisms, including fungi. If superinfection occurs, appropriate therapy should be instituted.

ADVERSE REACTIONS

Hypersensitivity reactions, primarily skin rashes, have been reported. Irreversible deafness and/or renal damage have been reported following extended and/or high dosage therapy with neomycin sulfate.

DOSAGE AND ADMINISTRATION

TO BE ADMINISTERED INTRAMUSCULARLY ONLY

Therapy should not be continued beyond 10 days. The total daily dose should not exceed 1 gram of neomycin sulfate.

Adults. 15 mg. neomycin sulfate/kg./day, divided in four equally spaced doses.

Premature and full-term newborn infants. 4 mg. neomycin sulfate/kg./day, divided in four equally spaced doses.

Older infants and children. 7.5-15 mg. neomycin sulfate/kg./day, divided in four equally spaced doses.

Preparation of solutions: To be supplied by manufacturer.

HOW SUPPLIED

To be supplied by the manufacturer.

Batches of the drug for which certification is requested should provide for labeling information in accord with labeling guidelines developed on the basis of this reevaluation of the drug and published in this announcement.

The remaining probably effective indication and the possibly effective indications have been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness of this drug has been submitted pursuant to the notice of May 13, 1970. No effective indications remain for other than the intramuscular route of administration.

Batches of such drugs with labeling bearing indications for which substantial evidence of effectiveness is lacking are no longer acceptable for certification or release. Packages containing 5 or 10 grams of sterile powder are considered inappropriate sizes for preparation of

solutions for intramuscular administration and will no longer be certified or released.

Any person who will be adversely affected by the deletion from labeling of the indications for which the drug has been reclassified from probably or possibly effective to lacking substantial evidence of effectiveness may, within 30 days after the date of publication of this notice in the FEDERAL REGISTER, petition for the issuance of a regulation providing for other certification of the drug for such indications. The petition must be supported by a full factual and well documented medical analysis which shows reasonable grounds for the issuance of such regulation.

A petition for issuance of said regulation should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51 as amended, 59 Stat. 463 as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: February 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-2966 Filed 2-28-72;8:46 am]

Office of the Secretary

OFFICE OF SAFETY MANAGEMENT

Statement of Organization, Functions, and Delegation of Authority

The Statement of Organization, Functions, and Delegations of Authority of the Department is amended to establish the Office of Safety Management under the Assistant Secretary for Administration and Management.

The following new section is added to Chapter 1-U "The Assistant Secretary for Administration and Management", to read as follows:

SECTION 1U011001: The Office of Safety Management, headed by a Director reports to the Deputy Assistant Secretary for Administration, and is responsible for the management of a Department-wide occupational safety and health program in accordance with section 7902 of title 5 United States Code, section 19(a) of the Occupational Safety and Health Act of 1970, and section 1 of Executive Order 11612. Specifically this office:

Develops and promulgates plans, policies, standards, and procedures for the Department-wide Safety Program;

Represents the Department on the Federal Safety Advisory Council, Federal Fire Council, and provides official Department representation to the Department of Labor, General Services Administration and other Federal agencies;

Provides Department liaison with the National Fire Protection Association, National Safety Council, and other outside organizations;

Advises top management of the Department on all matters pertaining to the management and direction of the Department Safety Program and provides technical assistance to the operating agencies, regional offices, and field installations in all areas of safety management;

Plans and administers a Safety Management Information System;

Coordinates safety education and training activities throughout the Department;

Prepares the Department's position on proposed legislation concerning safety and fire protection; and

Coordinates and monitors research for development of new accident prevention methods and concepts.

Dated: February 18, 1972.

RODNEY H. BRADY,
Assistant Secretary for Administration and Management.

[FR Doc.72-2968 Filed 2-28-72;8:46 am]

Social Security Administration

GUYANA

Notice of Finding Regarding Foreign Social Insurance or Pension System

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health, Education, and Welfare finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in the Commissioner of Social Security by the Secretary of Health, Education, and Welfare, and redelegated to him, the Director of the Bureau of Retirement and Survivors Insurance has approved a finding that Guyana beginning September 29, 1969, has a social insurance system of general application which pays periodic benefits on account of old age, retirement, or death, and under which citizens of the United States, not citizens of Guyana, who leave Guyana, are permitted to receive such benefits or their actuarial equivalent at the full rate without qualification or restriction while outside that country.

Accordingly, it is hereby determined and found that Guyana has in effect beginning with September 29, 1969, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

This revises the finding with respect to Guyana published in the FEDERAL REGISTER of April 5, 1967 (32 F.R. 5592).

Dated: February 18, 1972.

HUGH F. MCKENNA,
Director, Bureau of Retirement and Survivors Insurance.

[FR Doc.72-3027 Filed 2-28-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-373, 50-374]

COMMONWEALTH EDISON CO.

Notice of Availability of Applicant's Supplemental Environmental Reports

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that "Supplements 1 and 2 to Environmental Report for La Salle County Station Units 1 and 2," dated January 17, 1972, and February 14, 1972, respectively, by the Commonwealth Edison Co. are being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Reddicks Public Library, 100 West Lafayette Street, Ottawa, IL 61350. The supplements are also being made available at the Office of Planning and Analysis, Executive Office of the Governor, Room 614, State Office Building, Springfield, Ill. 62706. Supplement 1, consisting of page changes, in addition to Supplement 2, a report, update and provide supplemental information to the Environmental Report for the proposed construction of the La Salle County Nuclear Power Station Units 1 and 2 to be located in Brookfield Township, La Salle County, Ill. Notice of availability of the applicant's report entitled "Environmental Report for La Salle County Station Units 1 and 2," dated November 4, 1971, was published in the FEDERAL REGISTER on January 22, 1972 (37 F.R. 1073).

After these supplements have been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal Agencies and State and local officials will be available when received.

Dated at Bethesda, Md., this 22d day of February 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Division of Reactor Licensing.

[FR Doc.72-2955 Filed 2-28-72;8:45 am]

[Docket No. 50-301]

WISCONSIN ELECTRIC POWER CO. AND WESTERN MICHIGAN POWER CO.

Order of the Board Concerning Reconvening of Hearing

In the matter of Wisconsin Electric Power Co., and Wisconsin Michigan Power Co. (Point Beach Nuclear Plant, Unit 2), Docket No. 50-301.

The evidentiary hearing in the above captioned matter will reconvene on March 21, 1971, at 10 a.m. in Manitowoc, Wis. This advance notice is being issued in order that all parties will have ample notice of the reconvening of the public hearing in this proceeding. An order will be issued shortly setting the place of hearing and stating the agenda for the subsequent session.

The Board notes that all parties are represented by counsel and in the case of the intervenors by four counsel who have all filed notices of appearance.

Issued: February 23, 1972, Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
ROBERT M. LAZO,
Chairman.

[FR Doc.72-2956 Filed 2-28-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23486; Order 72-2-59]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority February 16, 1972.

Agreement adopted by the Traffic Conferences of the International Air Transport Association relating to fare matters, Docket 23486, Agreement CAB 22663.[1]

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The subject portions of the agreement, which have been designated under the CAB agreement number assigned above, were adopted as a result of various IATA meetings, including the Composite Passenger Traffic Conference held at Miami in September and October of 1971.

To the extent they apply directly or indirectly in air transportation as defined by the act, the resolutions embodied in those portions of the agreement now under consideration involve administrative, procedural, or technical provisions which do not affect basic fare levels. The majority of resolutions, however, relate to provisions governing special fares intended for application in various world geographic areas and precluding, by their terms, combinations with fares in air transportation; in accordance with past policy, we are herein disclaiming jurisdiction with respect to such resolutions.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found, on a tentative basis, that the following resolutions, which are incorporated in the agreement as indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-52	001	Permanent Effectiveness Resolution (Amending)	Worldwide.
R-31	001b	North and Central Pacific—Special Effectiveness Resolution (Tie-in).	3/1 (N/C Pac.); 1/2/3 (N/C Pac.).
R-53	001b	TC1—Special Effectiveness Resolution (Tie-in)	1.
R-54	001b	TC3—Special Effectiveness Resolution (Tie-in)	3.
R-55	001b	South Pacific—Special Effectiveness Resolution (Tie-in)	3/1 (S. Pac.); 1/2/3 (S. Pac.).
R-144	001b	North Atlantic—Special Effectiveness Resolution (Tie-in)	1/2 (N. Atl.).
R-145	001b	do	1/2/3 (N. Atl.).
R-250	001b	JT23—Special Effectiveness Resolution (Tie-in)	2/3.
R-251	001b	JT123—Special Effectiveness Resolution (Tie-in)	1/2/3 (between 2 and 3 via 1).
R-56	001d	Special Emergency Escape for TC3 Agreements (New)	3.
R-57	001d	Special Emergency Escape for South Pacific Agreements (New)	3/1 (S. Pac.).
R-253	001L	JT23 Escape Resolution (New)	2/3.
R-254	001LL	do	2/3.
R-146	001w	North Atlantic Expiry (Revalidating and Amending)	1/2 (N. Atl.).
R-33	003	Standard Rescission Resolution	3/1 (N/C Pac.); 1/2/3 (N/C Pac.).
R-70	047	General Applicability Resolution (Amending)	Worldwide.
R-276	076z	Form of Application for Affinity Group Fares (Amending)	2/3; 1/2/3.
R-115	102	Passenger Expenses En Route (Revalidating and Amending)	1; 3; 1/2 (S. Atl.); 3/1 (S. Pac.); 1/2/3 (except N/M Atl.).
R-201	102	do	2/3.
R-116	115d	Meeting Non-IATA Competition—Passenger (Revalidating and Amending).	3.
R-117	115f	Meeting Non-IATA Competition—Practices (Revalidating and Amending).	3.

2. It is not found that the following resolutions, which are incorporated in the agreement as indicated and which do not directly affect air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-118	001b	South Atlantic Special Effectiveness Resolution (Tie-in)	1/2 (S. Atl.); 1/2/3 (via Atl. except between 2 and 3 via 1).
R-190	001b	TC2—Special Effectiveness Resolution (Tie-in)	2.
R-119	001dd	South Atlantic Escape for Normal and Special Fares (New)	1/2 (S. Atl.); 1/2/3 (S. Atl.).
R-191	001L	TC2 Special Escape Resolution (New)	2.
R-120	001t	Seating Density Resolution (New)	1/2 (S. Atl.); 1/2/3 (S. Atl.).
R-62	002	Standard Revalidation Resolution	2.
R-121	002	do	1/2 (S. Atl.); 1/2/3 (S. Atl.).
R-192	002	do	2 (except Europe).
R-123	003	Standard Rescission Resolution	1/2 (S. Atl.); 1/2/3 (S. Atl.).
R-197	014a	Construction Rule for Passenger Fares (Revalidating and Amending).	2 (except Europe).
R-124	050	First Class Conditions of Service (Revalidating and Amending)	1/2 (S. Atl.); 1/2/3 (S. Atl.).
R-126	060	Economy Class Conditions of Service Revalidating and Amending).	1/2 (S. Atl.); 1/2/3 (S. Atl.).
R-114	100	Conditions of Service—in-flight Entertainment (Revalidating and Amending).	2.
R-247	115c	Meeting Non-IATA Competition in the Middle East (Revalidating).	2.

[1] Agreement C.A.B. 22663, R-31; R-33; R-40; R-52 through R-57; R-62; R-70; R-82; R-85; R-88 through R-90; R-100; R-110 through R-112; R-114 through R-124; R-126; R-128 through R-130; R-144 through R-146; R-163; R180; R-190 through R-198; R-202 through R-247; R-250 through R-254; R-268 through R-273; R-276; R-288; and R-291.

3. It is not found that the following resolutions, which are incorporated in the agreement as indicated, affect air transportation within the meaning of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-252	001ff	JT23 Escape Resolution (New)	2/3.
R-193	002	Standard Revalidation Resolution (Revalidating and Amending).	2.
R-194	002	do	2.
R-195	002	Standard Revalidation Resolution	2.
R-196	002	do	2.
R-122	002s	Special Revalidation Resolution—South Atlantic	1/2 (S. Atl.).
R-198	014s	Special Fares to/from United Kingdom (Revalidating and Amending).	2.
R-82	070i	TC1 21 Day Excursion Fares Canada-Bermuda/Caribbean (Revalidating and Amending).	1.
R-202	070j	TC2 90 Day Excursion Fares, Southern Africa to Europe/Middle East (Revalidating and Amending).	2.
R-203	070k	TC2 90 Day Excursion Fares—United Kingdom/Ireland to Southern Africa (Revalidating and Amending).	2.
R-204	070m	TC2 45 Day Excursion Fares Europe/Middle East to Mozambique (Revalidating and Amending).	2.
R-205	070r	TC2 45 Day Excursion Fares Southern Africa to Europe/Middle East (Revalidating and Amending).	2.
R-206	070rr	TC2 45 Day Excursion Fares Europe/Middle East to Southern Africa (Revalidating and Amending).	2.
R-207	070s	TC2 40 and 45 Day Excursion Fares, Africa to Europe/Middle East (Revalidating and Amending).	2.
R-208	070w	TC2 90 Day Excursion Fares, United Kingdom/Ireland—Central Africa (Revalidating and Amending).	2.
R-128	070y	South Atlantic 60 Day Economy Class Excursion Fares (Revalidating and Amending).	1/2 (S. Atl.).
R-163	070z	North Atlantic Excursion Fares, Iceland to Greenland (Revalidating and Amending).	1/2 (N. Atl.).
R-268	071c	JT23 90, 120 Day Excursion Fares, United Kingdom to India/Pakistan/Ceylon/Afghanistan/Nepal (Revalidating and Amending).	2/3.
R-209	071h	TC2 65 and 75 Day Excursion Fares, East Africa/Mauritius to Europe (Revalidating and Amending).	2.
R-210	071k	TC2 60 Day Excursion Fares—Africa to Europe (Revalidating and Amending).	2.
R-211	071m	TC2 30 Day Excursion Fares—Africa/Middle East to Europe (Revalidating and Amending).	2.
R-85	071p	TC3 45 Day Excursion Fares from Pakistan (New)	3.
R-212	071r	TC2 45 Day Excursion Fares Europe to Africa (New)	2.
R-213	071s	TC2—21, 25, and 35 Day Excursion Fares, West and West Central Africa to Europe (New).	2.
R-269	071t	JT23 90 Day Excursion Fares—South East Asia to Europe (New)	2/3.
R-270	071u	JT23 180 Day Excursion Fares—Australia/New Zealand-Europe/Middle East (New).	2/3; 1/2/3.
R-271	071v	JT23—120 Day Excursion Fares from Pakistan (New)	2/3.
R-272	071w	JT23 35 Day Excursion Fares—Afghanistan and Lebanon (New)	2/3.
R-214	072b	TC2 Creative Fares Except Europe (Revalidating and Amending).	2.
R-215	072d	TC2 Creative Fares, Europe-Middle East (Revalidating and Amending).	2.
R-216	073b	TC2 Emigrant Fares Nicosia to London (Revalidating and Amending).	2.
R-217	073c	TC2 Creative Fares—United Kingdom/Ireland—Nicosia (Revalidating and Amending).	2.
R-218	073e	TC2 36 Day Individual Fares United Kingdom to Nicosia (Replacing).	2.
R-88	075f	TC3 Public Group Travel—New Zealand—Australia (New)	3.
R-89	075g	TC3 Common Interest Group Travel—Australia/New Zealand	3.
R-219	075k	TC2 42 Day Fares, Nicosia to London (Replacing)	2.
R-90	075L	TC1 30 Day Group Excursion Fares (Within South America) (Revalidating and Amending).	1.
R-273	075p	JT23 45 Day Group Fares—Mauritius to Bombay (Revalidating and Amending).	2/3.
R-220	076bb	TC2 8 Day Affinity Winter Group Fares Europe to Middle East (Revalidating and Amending).	2.
R-221	076k	Affinity Group Fares, Ethiopia to Europe/Middle East and Within Africa (Revalidating and Amending).	2.
R-129	076r	South Atlantic Affinity Group Fares (Revalidating and Amending).	1/2 (S. Atl.)
R-222	076t	Affinity Group Fares—Johannesburg—Europe (New)	2.
R-223	077a	TC2 Group Fares for Seamen (Revalidating and Amending)	2.
R-40	077h	JT31 Individual Fares For Ships' Crews (Revalidating and Amending).	3/1 (N/C Pac.).
R-224	080	TC2 45 Day Individual Inclusive Tour Fares—Europe/Middle East to Africa (Revalidating and Amending).	2.
R-100	080o	TC1 21 Day Individual Inclusive Tour Fares From Bermuda/Bahamas to Mexico (Revalidating and Amending).	1.
R-225	081a	TC2 45 Day Group Inclusive Tour Fare, Israel to Europe (Revalidating and Amending).	2.
R-226	081c	TC2 Group Inclusive Tour Fares—Europe to Israel/Iran (Revalidating and Amending).	2.
R-227	081cc	TC2 Group Inclusive Tour Fares—Europe to Middle East (Excluding Israel) (Revalidating and Amending).	2.
R-228	081d	TC2 Group Inclusive Tour Fares, Europe to Israel (Revalidating and Amending).	2.
R-229	081e	TC2 Group Inclusive Tour Fares Europe to Middle East (Excluding Israel) (Revalidating and Amending).	2.
R-230	081f	TC2 Group Inclusive Tour Fares—Within Africa (Revalidating and Amending).	2.
R-130	081k	South Atlantic 28 Day Group Inclusive Tour Fares (Revalidating and Amending).	1/2 (S. Atl.).
R-231	081m	TC2 Group Inclusive Tour Fares Scandinavia/Finland to Israel (Revalidating and Amending).	2.
R-232	081p	TC2 One Month Group Inclusive Tour Fares—Europe/Middle East to Africa (Revalidating and Amending).	2.
R-233	081pp	Nine Day and One Month Special Group Inclusive Tour Fares—Europe/Middle East to Africa (Revalidating and Amending).	2.
R-234	081q	TC2 One Month Group Inclusive Tour Fares—Europe/Middle East to West Africa and West Central Africa (Revalidating and Amending).	2.
R-235	081r	TC2 45 Day Group Inclusive Tour Fares—Middle East to Europe (Revalidating and Amending).	2.
R-236	081s	TC2 45 Day Group Inclusive Tour Fares—Iran to Europe (Revalidating and Amending).	2.
R-237	081u	TC2 One Month Group Inclusive Tour Fares, Europe/Middle East to West Africa and West Central Africa (Revalidating and Amending).	2.
R-238	081v	One Month Group Inclusive Tour Fares—Africa to Middle East (Revalidating and Amending).	2.
R-239	081w	TC2 One Month Group Inclusive Tour Fares—Southern Africa to Europe/Middle East (Revalidating and Amending).	2.
R-240	081z	Inclusive Tour Minimum Selling Prices (New)	2.
R-241	084r	Group Inclusive Tours From Scandinavia (New)	2.
R-242	090a	TC2 60 Day Pilgrim Fares—Middle East (Revalidating and Amending).	2.
R-288	090b	JT23 35 and 60 Day Pilgrim Fares (Revalidating and Amending)	2/3.
R-110	091f	TC3 Family Fares—Australia-New Zealand (Revalidating and Amending).	3.
R-243	091i	TC2 Family Fares—Europe to Middle East (Revalidating and Amending).	2.
R-111	092	Student Fares (Revalidating and Amending)	1/2 (S. Atl.).
R-180	092	Student Fares (Adopting)	1/2 (N. Atl.)
R-244	092	Student Fares (Revalidating and Amending)	2.
R-112	092e	TC3 Youth Fares (New)	3.
R-245	092h	TC2 Youth Fares—Middle East (New)	2.
R-246	093	TC2 Teachers Fares (Revalidating and Amending)	2.

Accordingly, it is ordered, That:

1. Action on those portions of Agreement CAB 22663 set forth in finding paragraph 1 above be and hereby is deferred with a view toward eventual approval;

2. Those portions of Agreement CAB 22663 described in finding paragraph 2 above be and hereby are approved; and

3. Jurisdiction is disclaimed with respect to portions of Agreement CAB 22663 set forth in finding paragraph 3 above.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-2940 Filed 2-28-72;8:45 am]

[Docket No. 22628; Order 72-2-68]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares

Issued under delegated authority February 17, 1972.

By Order 71-12-27, dated December 7, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by Traffic Conference 1 of the International Air Transport Association (IATA). The agreement amends an existing resolution governing economy-class fares within the Western Hemisphere by the inclusion of a specified fare reflecting new direct service between Mazatlan and Denver.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-12-27 will herein be made final:

Accordingly, it is ordered, That:

Agreement CAB 22824 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 72-3007 Filed 2-28-72;8:49 am]

[Docket No. 23768; Order 72-2-84]

MOHAWK AIRLINES, INC.

Order Regarding Applications for an Exemption, a Certificate Amendment and a Petition for a Show Cause Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23rd day of February 1972.

Mohawk Airlines, Inc. (Mohawk), has filed an application on August 30, 1971, requesting an amendment of its certificate of public convenience and necessity for route 94 to authorize nonstop service between Binghamton and Watertown, N.Y.[1] Contemporaneously, the carrier has filed an application requesting the same authority by show cause procedures and, in the alternative, by exemption.

Mohawk states, inter alia, that it presently has nonstop authority between almost all points served in upstate New York, except Watertown-Binghamton; that it is the only certificated carrier at these particular points; that the authority requested will permit Mohawk to provide conveniently timed service to meet the needs of passengers between Watertown and Binghamton, on the one hand, and New York on the other; that the requirement that Syracuse be served on flights between Watertown and Binghamton as a segment junction point increases the overall subsidy need for this service by $85,000; that as the Watertown-Syracuse market is now well served by Air North, Mohawk's unneeded service in this market would only divert revenues from the commuter operator.

No answers in opposition to Mohawk's applications have been filed.

Mohawk's application falls within the category of cases which Subpart M of the procedural regulations was originally designed to handle, and should, therefore, have been filed under that procedure. Moreover, in Order 70-10-127, dated October 28, 1970, the Board placed all local service carriers on notice that applications of this type would be processed under Subpart M procedures regardless of the procedural labels invoked by the applicant. In this instance, however, we have decided not to require the application to be refiled under Subpart M since this might unnecessarily delay what has heretofore been an unopposed request for a route adjustment in a monopoly market.[2] Instead, we have decided to proceed under Subpart M, with Mohawk's application standing as a Subpart M application.[3]

Appropriate forecasts, however, shall be required in accordance with Rule 1304 of the Board's rules of practice.[4] Pending the receipt of these financial projections, and based on our analysis of the situation to date, it is our tentative intention to grant the application if no adverse answer requiring a hearing is filed, and otherwise to direct that the application be heard on an expedited basis.

Accordingly, it is ordered, That:

1. Within 20 days of the date of this order, Mohawk shall file a supplement to its application and petition in Docket 23768, setting forth a 2-year forecast for Mohawk's proposal, and complying fully with Rule 1307(a) of the Board's rules of practice;

2. Any interested persons may, within 25 days after the filing by Mohawk of its supplemental application, file with the Board an answer to said application, such answers to comply with the provisions of Rules 1306 and 1307(a) of the Board's rules of practice;

3. If answers opposing the application and requesting a hearing are filed pursuant to paragraph 2, and the Board determines that a hearing is required, Mohawk's application will be considered by the Board under the expedited procedures of Subpart M of its rules of practice, specifically Rules 1308-1315;

4. In the event no such answers are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter a final order; and

5. A copy of this order shall be served upon the following persons: Air North, Inc., American Airlines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line, Inc., and Command Airways, Inc., the cities of Watertown, Syracuse, Binghamton, and New York, and the Port of New York Authority.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-3008 Filed 2-28-72;8:49 am]

[1] Mohawk has existing one-stop authority between these points via Syracuse.

[2] Because Mohawk's application is unopposed, no provision will be made for statements seeking dismissal pursuant to Rule 1305.

[3] We believe it is appropriate to move forward with a view toward approval where the removal of a restriction on a carrier's operating authority is requested, where the carrier is the only one operating in the market and no other carrier objects, and there is no clear showing that the restriction should be retained. Cf: Service to Lincoln, Nebr., Order 71-4-75, Apr. 13, 1971, at p. 7.

[4] Mohawk's original application includes an estimate purporting to demonstrate an increase in subsidy need of $85,000 if service to Syracuse is required on flights between Watertown-Binghamton and New York. On the basis of the carrier's various submissions, we can find no basis for concluding that Mohawk would provide Watertown-New York service over such a routing, with a resulting increase in subsidy need, absent the requested authority, particularly in view of the fact that Mohawk could continue to serve the Watertown-New York market over Utica without the requested authority.

CIVIL SERVICE COMMISSION

COST OF LIVING COUNCIL

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Cost of Living Council to fill by noncareer executive assignment in the excepted service the position of Assistant General Counsel for Legal and Enforcement Matters.

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

[FR Doc.72-2992 Filed 2-28-72;8:48 am]

COST OF LIVING COUNCIL

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Cost of Living Council to fill by noncareer executive assignment in the excepted service the position of General Counsel.

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

[FR Doc.72-2991 Filed 2-28-72;8:48 am]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil

Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Bureau of the Census.

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

[FR Doc.72-2995 Filed 2-28-72;8:48 am]

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Administrator for Management, Social and Economic Statistics Administration.

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

[FR Doc.72-2990 Filed 2-28-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Administrator (Medical Affairs), Public Health Service, Health Services and Mental Health Administration, Office of the Administrator, Immediate Office.

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

[FR Doc.72-2996 Filed 2-28-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary—Mineral Resources, Office of the Secretary.

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

[FR Doc.72-2997 Filed 2-28-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary—Mineral Resources (Mineral Programs), Office of the Secretary.

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

[FR Doc.72-2993 Filed 2-28-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary, Office of the Secretary.

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

[FR Doc.72-2994 Filed 2-28-72;8:48 am]

FEDERAL HOME LOAN BANK BOARD

[H. C. 117]

ORBANCO, INC.

Notice of Receipt of Application

FEBRUARY 24, 1972.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Orbanco, Inc., Portland, Oreg., a bank holding company, for approval of acquisition of control of the Franklin Savings and Loan Association, Seattle, Wash., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a (e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by the purchase for cash by Orbanco, Inc., of the outstanding stock of Franklin Savings and Loan Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary, Federal Home Loan Bank Board.

[FR Doc.72-3000 Filed 2-28-72;8:49 am]

FEDERAL MARITIME COMMISSION

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, Washington, DC 20036.

Agreement No. 150-55 modifies the basic agreement of the Trans-Pacific Freight Conference of Japan by amending Article 25(d) (1) and (2) to permit the Conference's Neutral (self-policing) Body to investigate the records of Members' container yards, container freight systems, and terminal receiving system operators.

Dated: February 24, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-3023 Filed 2-28-72;8:51 am]

FEDERAL RESERVE SYSTEM

AMERICAN GENERAL INSURANCE CO.

Acquisition of Bank

American General Insurance Co., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly 100 percent of the voting shares of the successor by merger to North Freeway Bank, Houston, Tex. 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 Dallas. 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 15, 1972.

Board of Governors of the Federal Reserve System, February 23, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2957 Filed 2-28-72;8:45 am]

AMERICAN TRADING CO.

Order Approving Retention of Bank

American Trading Co., Brunswick, Ga., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)) to retain[1] 50.6 percent of the voting shares of State Bank of Kingsland, Kingsland, Ga. (Bank).

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Prior to its acquisition of Bank, applicant had been engaged in selling excess capital stock of the American National Bank of Brunswick resulting from severance of that bank from the Citizens and Southern Holding Co. Bank, with deposits of $3.6 million representing 0.05 percent of deposits held by commercial banks in Georgia, is the fourth largest of eight commercial banks located in the Kingsland banking market which is approximated by Camden and northeastern Charlton Counties in Georgia and northern Nassau County in Florida, and holds approximately 10.3 percent of commercial bank deposits in that market. (Banking data are as of June 30, 1971.)

Inasmuch as the acquisition constituted a corporate reorganization and reflected no expansion of corporate interests or significant change in the character of the banking facilities involved, consummation of the transaction eliminated neither existing nor potential competition, nor does it appear that there have been any adverse effects on any bank in the area.[2]

The financial and managerial resources and prospects of applicant and Bank are regarded as satisfactory and consistent with approval of the application in view of applicant's commitment to raise $200,000 in additional equity capital within 60 days of approval of this application in order to significantly reduce the debt which it incurred in order to purchase shares of Bank. The convenience and needs of the communities involved have been beneficially affected by the acquisition in that, with the aid of applicant's affiliate, Brunswick Bank, Bank has instituted a mortgage lending program, modernized certain of its operations, and secured a successor to its president who intends to retire this year. It is the Board's judgment that the transaction was in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.

By order of the Board of Governors,[3] February 22, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2958 Filed 2-28-72;8:45 am]

COMMERCE UNION BANK

Order Approving Application for Merger of Banks

Commerce Union Bank, Nashville, Tenn., a member State bank of the Federal Reserve System, has applied for the Board's approval pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) of the merger of that bank with Broadway State Bank, Nashville, Tenn., under the charter and name of the former. As an incident to the merger, the present offices of Commerce Union Bank will continue as branches thereof.

As required by the Act, notice of the proposed merger, in form approved by the Board, has been published, and the Board has requested reports on competitive factors from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered the application and all comments and reports received in light of the factors set forth in the Act.

On the basis of the record, the application is approved for the reasons summarized in the Board's order of this date relating to the application of Tennessee Valley Bancorp, Inc. to become a bank holding company, provided that said merger shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] February 22, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2959 Filed 2-28-72;8:45 am]

FIDELITY AMERICAN BANKSHARES, INC.

Proposed Acquisition of Columbia Life Insurance Co.

Fidelity American Bankshares, Inc., Lynchburg, Va., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Columbia Life Insurance Co., Phoenix, Ariz. Notice of the application was published on January 18, 1972, in The Daily Advance, a newspaper circulated in Lynchburg, Va.

Applicant states that the proposed subsidiary would engage in the activities of underwriting, as reinsurer of credit life and disability insurance issued in connection with extensions of credit by credit granting subsidiaries of applicant.

Such activities have not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies and are the subject of the Board's order of January 21, 1972, providing notice of a hearing regarding insurance underwriting activities to be conducted by designated staff members of the Board at the Board building at 20th Street and Constitution Avenue on March 24, 1972, beginning at 10 a.m. (37 F.R. 2542).

The issues involved in the present application will be considered in connection with that proceeding. Interested persons are invited to participate, either by presenting material orally at the hearing or through submission of written comments on the matter to be received by the Board's Secretary on or before April 10, 1972. Such material will be made available for inspection and copying upon request, except as provided

[1] On Apr. 5, 1971, applicant without prior Board approval acquired the shares of Bank which it has applied to retain. On June 22, 1971, the Board, in order to avoid impositions of undue hardship, ordered that any company which acquired a bank between Dec. 31, 1970, and June 22, 1971, without first securing prior Board approval because of lack of knowledge of that requirement might file for such approval by Aug. 31, 1971. Applicant apparently lacked knowledge of the requirements of the Act at the time it acquired the shares of Bank, and had filed a tentative application with the Federal Reserve Bank of Atlanta by Aug. 31, 1971.

[2] Applicant is affiliated with American National Bank of Brunswick, Brunswick, Ga. (Brunswick Bank). However Bank and Brunswick Bank serve different markets, are separated by approximately 40 miles and by intervening banks, and are prohibited by restrictive branching laws from establishing branches in each other's market area.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governor Maisel.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governor Maisel.

in § 261.6(a) of the Board's rules regarding availability of information.

Persons, in addition to applicant, who are interested in participating in the hearing by presenting material orally, should inform the Secretary of the Board in writing not later than March 9, 1972.

Board of Governors of the Federal Reserve System, February 22, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2960 Filed 2-28-72;8:45 am]

FINANCIAL SECURITIES CORP.

Remaining a Bank Holding Company and Retention of Shares of Bank

Financial Securities Corp., Lake City, Tenn., 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 remain a bank holding company through the retention of 65.12 percent (32,562) of the voting shares of First Farmers Bank, Athens, Tenn., and 50.56 percent (12,640) of the voting shares of First National Bank of Anderson County, Lake City, Tenn. In a reorganization of stock interest, applicant acquired the aforementioned shares in August 1971, from the Athens Financial Co., a partnership, on the mistaken belief that such a corporate reorganization did not require Board approval. The present application is for the Board's approval of the reorganization of the partnership into a corporation.

The partnership, the Athens Financial Co., acquired the aforementioned 50.56 percent interest in the First National Bank of Anderson County and 33.52 percent of the aforementioned 65.12 percent interest in the First Farmers Bank prior to December 31, 1970, and such acquisitions did not require Board approval since a partnership did not fall within definition of "company" in the Bank Holding Company Act until that date. After that date, a partnership does fall within the definition of "company", and the Board's prior approval to acquire shares in a bank is required.

Financial Securities Corp. has also applied for the Board's approval under section 3(a)(3) of the Bank Holding company Act (12 U.S.C. 1842(a)(3)) to retain 31.6 percent of the voting shares of First Farmers Bank, Athens, Tenn., which were acquired by the Athens Financial Co. in January 1971. The partnership made this acquisition on the mistaken belief that such action did not require Board approval. By order dated June 22, 1971, the Board authorized any company which, between December 31, 1970, and June 22, 1971, took action requiring prior Board approval, without such approval, to apply to the Board for subsequent approval of that action if certain conditions are present. Whether these conditions are met in this case is currently under study.

The factors that are considered in acting on these applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications 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 13, 1972.

Board of Governors of the Federal Reserve System, February 22, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2961 Filed 2-28-72;8:45 am]

FIRST NATIONAL BANCORPORATION, INC.

Acquisition of Bank

The First National Bancorporation, Inc., Denver, Colo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The East Colorado Springs National Bank, Colorado Springs, Colo. 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 15, 1972.

Board of Governors of the Federal Reserve System, February 23, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2962 Filed 2-28-72;8:46 am]

TENNESSEE VALLEY BANCORP, INC.

Order Approving Formation of Bank Holding Company

Tennessee Valley Bancorp, Inc., Nashville, Tenn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares of the successor by merger to Commerce Union Bank, Nashxille, Tenn. (bank).

The bank with which Bank will merge has no significance except as a means of acquiring the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. Pursuant to the Board's request for his views and recommendation, the Superintendent of Banks for the State of Tennessee responded that he had no objection to the application. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant is a newly organized corporation formed for the purpose of becoming a bank holding company. Bank, with deposits of $362.9 million as of June 30, 1971, is the fourth largest bank in the Nashville banking market and the seventh largest bank in the State of Tennessee.

Inasmuch as the proposal constitutes a corporate reorganization and reflects no expansion of corporate interests or significant change in the character of the banking facilities involved, consummation of the proposal would eliminate neither existing nor potential competition; nor does it appear that there would be any adverse effects on any bank in the area.

The financial and managerial resources and prospects of applicant and Bank are regarded as generally satisfactory and consistent with approval of the application. The convenience and needs of the communities involved would not be immediately affected by consummation of this proposal but improved services may be provided in the future under the more flexible corporate structure of the holding company. It is the Board's judgment that the transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] February 22, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2963 Filed 2-28-72;8:46 am]

TEXAS COMMERCE BANCSHARES, INC.

Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to North Freeway Bank, Houston, Tex. 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 Dallas. Any person wishing to comment on the application should submit his views in writing

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governor Maisel.

to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 15, 1972.

Board of Governors of the Federal Reserve System, February 23, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2964 Filed 2-28-72;8:46 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Reg.; Temporary Reg. F-137]

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 a telecommunications service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Colorado Public Utilities Commission in a proceeding (Application No. 25457) involving the application of the Mountain States Telephone and Telegraph Co. for increased rates.

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.

Dated: February 22, 1972.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.72-3005 Filed 2-28-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3882]

APPLIED DEVICES CORP.

Order Suspending Trading

FEBRUARY 22, 1972.

The common stock $0.50 par value, of Applied Devices Corp. being traded on the American Stock Exchange, and 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 exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period February 23, 1972 through March 3, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-3010 Filed 2-28-72;8:49 am]

[File No. 500-1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

FEBRUARY 22, 1972.

The common stock, 2-cent 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 23, 1972 through March 3, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-3011 Filed 2-28-72; 8:50 am]

[812-3058]

E. I. DU PONT DE NEMOURS AND CO.

Notice of Filing of Application for Order Exempting Proposed Transaction

FEBRUARY 23, 1972.

Notice is hereby given that E. I. du Pont de Nemours and Co. (Applicant), a Delaware corporation, Wilmington, Del. 19898, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 (Act) for an order exempting from the provisions of section 17(a), the proposed grant to Mitsui Fluorochemicals Co., Ltd. (formerly Nitto Fluorochemicals Co., Ltd.), (hereinafter MFC), a Japanese corporation, of exclusive rights in Japan to certain technical information and Japanese patents required for the manufacture and sale by MFC of certain fluorocarbon plastic materials.

All interested persons are referred to the application on file with the Commission for a full statement of the representations contained therein, which are summarized below.

Christiana Securities Co. (Christiana), a registered closed-end investment company, owns approximately 28.4 percent of the outstanding common stock of Applicant, which in turn owns 50 percent of the outstanding common stock of MFC. Under section 2(a)(9) of the Act, Applicant and MFC are presumed to be controlled by Christiana and under section 2(a)(3) of the Act, are also affiliated persons of Christiana.

MFC was organized in April of 1963 pursuant to a 1962 agreement between Applicant and Nitto Fluorochemicals Co., Ltd. (Nitto), whereby each would have a 50 percent interest in MFC. In 1966, Nitto sold its 50 percent interest in MFC to Mitsui Petrochemical Industries, Ltd., and MFC assumed its present name. Under the 1962 agreement between Applicant and Nitto, which became effective upon MFC's formation in 1963, Applicant provided MFC, exclusively in Japan, with certain technical information and an exclusive license to manufacture specified types of fluorocarbon plastic materials including certain polymeric materials (hereinafter "1963 Polymers"). In return for the above-mentioned information and license, MFC agreed to pay to Applicant a 5 percent royalty on all 1963 Polymers sold by it during a 10-year period scheduled to end June 30, 1975, but which might be extended to no later than June 30, 1979. Applicant represents that because the 1962 agreement was entered into prior to the time of any affiliation between it and MFC, it was not necessary to file an application pursuant to, nor were the transactions described above in violation of, the provisions of section 17 of the Act.

The proposed transaction for which Applicant has requested an exemptive order involves an agreement between Applicant and MFC dated April 21, 1971, whereby Applicant will provide MFC with certain additional technical information required to manufacture high surface area fluorocarbon polymeric materials (HSA Polymers) and will grant to MFC and any sublicensee of MFC an exclusive license in Japan to import, make, use and sell HSA Polymers. Applicant will reserve to itself and to its customers the right to import, use or sell in Japan any quantity of HSA Polymers made by Applicant, including any article or product made using Applicants' HSA Polymers as an intermediate.

MFC has agreed to pay Applicant, in consideration for the granting of this exclusive license, a royalty of 2 percent of the "net selling price", as described in the application, of all quantities of HSA Polymers used or sold by MFC on any sublicensee during the 5½-year period from July 1, 1975, through December 31, 1980. Applicant has agreed to defer the 2-percent royalties on the HSA Polymers

until the expiration of the royalty period for the 1963 Polymers. Applicant projects that total royalties on HSA Polymers will amount to approximately $500,000.

MFC is currently producing and selling HSA Polymers with the understanding that the transfer to MFC by Applicant of the technical information and the license must be deemed nonexclusive so as not to represent a sale and purchase of property prohibited by section 17(a) of the Act.

Applicant represents that the royalty rate and other provisions of the proposed license were negotiated at arm's length, and Applicant believes that the terms of the proposed transaction are fair to both Applicant and MFC.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company from purchasing from such company or any company controlled by such registered investment company any security or other property, with certain exceptions not here applicable. Section 17(b) of the Act provides that the Commission shall issue an order exempting a proposed transaction from one or more provisions of section 17(a) if the Commission finds, upon application, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Notice is further given that any interested person may, not later than March 11, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-3012 Filed 2-28-72;8:50 am]

[70-5073]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Filing and Order for Hearing on Application for Exception From Competitive Bidding

FEBRUARY 23, 1972.

Notice is hereby given that Great Lakes Gas Transmission Co. (Great Lakes), 1 Woodward Avenue, Detroit, MI 48226, a nonutility subsidiary company of American Natural Gas Co. (American Natural), a registered holding company, has filed an application and an amendment thereto with this Commission for an exception from the competitive bidding requirements of Rule 50 promulgated under the Public Utility Holding Company Act of 1935 (Act). All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Great Lakes' capital stock, currently outstanding in the aggregate par amount of $50 million, is owned in equal shares by American Natural and Trans-Canada Pipe Lines Ltd. (Trans-Canada), a nonaffiliated company. Apart from common stock, Great Lakes' capitalization consists entirely of bank loans; it is presently authorized to issue notes totaling $265 million, of which $240 million due December 31, 1973, have been issued to date (see Holding Company Act Release No. 17097).

Great Lakes owns and operates a natural gas pipeline system running from a point on the international boundary between the United States and Canada near Emerson, Manitoba, through Minnesota, Wisconsin, and Michigan, to points on the boundary near St. Clair, Mich., and Sault Ste. Marie, Mich. At Emerson, St. Clair, and Sault Ste. Marie, Great Lakes' pipeline connects with the pipeline facilities of Trans-Canada, for which Great Lakes provides west-to-east transportation service. In addition, Great Lakes sells natural gas to subsidiary companies of American Natural and other gas companies in the United States.

In order to meet construction schedules provided for in the certificating orders by the Federal Power Commission (FPC), Great Lakes financed construction of the pipeline through the sale of common stock and through short-term bank loans. Although construction costs and interest rates were greater than anticipated, Great Lakes was required by Canadian Government order to maintain a "moratorium" on rate increases until November 1, 1971, for services rendered to Trans-Canada. Great Lakes incurred net losses of $1,036,790 in 1969 and $2,150,519 in 1970. The net income for the first 6 months of 1971 was $283,000 resulting in an earned surplus deficit of $811,000.

The period during which rate increases were prohibited has expired. Pursuant to a settlement order with the FPC, Great Lakes is allowed until December 31, 1973, to adjust its rates periodically to reflect its cost of capital, including interest.

Great Lakes now proposes to refinance approximately $200 million of its short-term bank debt with privately placed long-term debt. Great Lakes requests an exception from the competitive bidding requirements of Rule 50 in order to negotiate for the private sale of such securities (See Holding Company Act Release No. 16832). The issuance of such securities will be the subject of a further application.

Great Lakes management and its financial consultants are of the opinion that the company can not accomplish such long-term financing through a public offering because of, among other things, the magnitude of the proposed financing, absence of an earnings record, the accumulated earnings deficit, and because it is improbable that earnings will improve significantly over the next few years.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed exception from competitive bidding.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a public hearing be held with respect to the proposed exception; all interested persons be afforded an opportunity to be heard; and that the application should not be granted except pursuant to further order of the Commission:

It is ordered, That a hearing be held herein on April 11, 1972, at 10 a.m., at the office of the Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549. On such date the Hearing Room Clerk will advise as to the room in which the hearing will be held:

It is further ordered, That a Hearing Examiner, hereafter to be designated, shall preside at said hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under section 18(c) of the Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation of the Commission having advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration, without prejudice, however, to the presentation of additional matters and questions upon further examination:

Whether generally the type and amount of the proposed debt securities meet the standards of the Act;

Whether the requested exception meets the standards of paragraph (a)(5) of Rule 50; and

What terms or conditions, if any, the Commission's order should contain:

It is further ordered, That any person, other than applicant, desiring to be heard in connection with this proceeding or proposing to intervene therein shall file with the Secretary of the Commission, on or before April 6, 1972, a written request relative thereto as provided in Rule 9 of the Commission's rules of practice. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of these proceedings:

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate, in whole or in part, either for hearing or for disposition, any issues or questions which may arise in these proceedings and to take such other action as may appear conducive to an orderly, prompt, and economical disposition of the matters involved:

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this notice and order by certified mail to the Federal Power Commission and the U.S. Department of Justice, and that notice to all other interested persons shall be given by a general release of the Commission and by publication of this notice and order in the FEDERAL REGISTER.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-3013 Filed 2-28-72;8:50 am]

[811-1808]

MOSLER FUND, INC.

Notice of Proposal To Terminate Registration

FEBRUARY 22, 1972.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act) to declare by order on its own motion that The Mosler Fund, Inc. (Fund), 250 Park Avenue, New York, NY 10017, has ceased to be an investment company. The Fund filed its Notification of Registration on Form N-8A on February 5, 1969, and was thereby registered under the Act as a management, open-end, diversified investment company.

Information available in the files of the Commission reveals that Fund has neither assets nor shareholders.

In light of the above, the staff pursuant to Rule 479 under the Securities Act of 1933 (1933 Act) was required to send notice by certified mail, return receipt requested, to the registrant and the agent for service reflected in the Securities Act registration statement. The 30-day time period provided by the rule has elapsed and no response has been received to the staff's notice. The Commission, as a result, declared Fund's registration statement under the 1933 Act abandoned, and issued an order to that effect on February 1, 1972.

Section 8(f) of the Act provides, in pertinent part, that when the Commission finds a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 14, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Fund at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission upon the basis of the information stated in this notice, unless an order for a hearing upon this matter shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-3014 Filed 2-28-72;8:50 am]

DEPARTMENT OF LABOR

Office of the Secretary

IDAHO

Notice of Availability of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of extended unemployment compensation payable when unemployment is high (according to indicators set forth in the law) to unemployed workers who have received all of the regular compensation to which they are entitled. Pursuant to section 203(b)(2) of the Act, notice is hereby given that H. Fred Garrett, Executive Director of the Idaho State Employment Department, has determined that there was a State "on" indicator in Idaho for the week beginning January 2, 1972, and that an extended benefit period began in the State with the week beginning January 23, 1972. This does not affect the extended benefit period which became effective the week beginning January 2, 1972, as a result of the national "on" indicator (See 36 F.R. 25074), but extends the extended benefit period until the third week after the first week for which there is both a state "off" indicator and a national "off" indicator.

Signed at Washington, D.C., this 22d day of February 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-2970 Filed 2-28-72;8:46 am]

RHODE ISLAND

Notice of Termination of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of extended unemployment compensation which provides for payment to unemployed workers who have received all of the regular compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Act, notice is hereby given that Mary C. Hackett, Director of the Rhode Island Department of Employment Security, has determined that there was a State "off" indicator in Rhode Island for the week ending January 15, 1972 and that an extended benefit period terminated in the State with the week ending February 5, 1972. This, however, does not terminate in Rhode Island the extended benefit period in effect in all States as a result of the national "on" indicator which became effective the week beginning January 2, 1972. (36 F.R. 25074).

Signed at Washington, D.C., this 22d day of February 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-2969 Filed 2-28-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

FEBRUARY 24, 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 133488 Sub 1, R.F.P. Trucking, Inc., now assigned February 28, 1972, at Boston, Mass., is canceled and transferred to Modified Procedure.

MC 107583 Sub 49, Salem Transportation, now being assigned hearing May 1, 1972, at Trenton, N.J., in a hearing room to be designated later.

MC-F-11170, Hyman Freightways—Control—Tri D Truck Line, assigned March 6, through March 10, will be held in Room 140, 601 East 12th Street, assigned March 8, 1972, will be held in Room 147B, 601 East 12th Street, assigned March 13, through March 17, 1972, will be held in Room 302, 911 Walnut Street, Kansas City, MO.

MC 61592 Sub 236, Jenkins Truck Line, Inc., now assigned March 3, 1972, at Los Angeles, Calif., canceled and the application is dismissed.

No. 35473, Flour, Arkansas City, Kans., to Memphis, Tenn., continued to February 24, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 120080 Sub 4, Morgan Express, Inc., assigned for continued hearing March 20, 1972, at the Dauphine Orleans Motor Hotel, 415 Dauphine Street, New Orleans, LA.

MC 107295 Sub 562, Pre-Fab Transit Co., MC 114552 Sub 60, Senn Trucking Co., and MC 115840 Sub 70, Colonial Fast Freight Lines, Inc., assigned for hearing April 18, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 121533 Sub 6, Western Hauling, Inc., now assigned March 6, 1972, at Seattle, Wash., postponed to April 4, 1972, in Room 1155, Federal Office Building, 909 First Avenue, Seattle, WA.

MC 103993 Sub 629, Morgan Drive-Away, Inc., Now assigned February 28, 1972, at Omaha, Nebr., is canceled and application is dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-3025 Filed 2-28-72;8:51 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 24, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 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. 42358—*Phosphates between points in southwestern, southern, Illinois Freight Association, and western Trunklines territories.* Filed by Southwestern Freight Bureau, agent (No. B-295), for interested rail carriers. Rates on diammonium phosphate, monoammonium phosphate, and superphosphate, in carloads, as described in the application, between points in southwestern territory (including Mississippi River crossings, Memphis, Tenn., and south), also between points in southwestern territory, on the ALM, MKT, PVS, SSW, and TM, on the one hand, and points in Illinois Freight Association, and western trunkline territories, on the CEI, KCS, MKT, MP, and SSW, on the other.

Grounds for relief—Market competition and carrier competition.

Tariff—Supplement 48 to Southwestern Freight Bureau, agent, tariff ICC 4941. Rates are published to become effective on March 21, 1972.

FSA No. 42359—*Cinders to points in southern territory.* Filed by Southwestern Freight Bureau, agent (No. B-296), for interested rail carriers. Rates on cinders, clay or shale, in open-top cars, as described in the application, from Arkalite and Edmondson, Ark., also Alexandria and Erwinville, La., to points in southern territory.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 140 to Southwestern Freight Bureau, agent, tariff ICC 4797. Rates are published to become effective on March 21, 1972.

FSA No. 42360—*Iron or steel scrap between points in Illinois and southern Wisconsin, also Chicago, Ill.* Filed by the Chicago and North Western Railway Co. (No. 105), for interested rail carriers. Rates on iron or steel scrap, in carloads, as described in the application, between points in Illinois and southern Wisconsin, on the one hand, and Chicago, Ill., on the other.

Grounds for relief—Market competition.

Tariffs—Supplements 32, 102, and 100 to Chicago and North Western Railway Co. tariffs ICC 5655, 11450, and 11464, respectively. Rates are published to become effective on April 3, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-3026 Filed 2-28-72;8:51 am]

CUMULATIVE LIST OF PARTS AFFECTED—FEBRUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during February.

1 CFR

3 CFR

3 CFR—Continued

3 CFR—Continued

4 CFR

5 CFR

Page

213 ... 2423, 2491, 2841, 2842, 2879, 3049, 3741, 3801, 4069
532 ... 3409
550 ... 3355

PROPOSED RULES:

900 ... 2589

6 CFR

101 ... 2491, 2678, 3913
102 ... 2478
200 ... 2479
201 ... 3357
300 ... 2842, 3410, 3827, 3828, 3913
301 ... 3828, 3829
305 ... 3915
311 ... 2480
401 ... 3741

7 CFR

7 ... 3349
51 ... 2745
53 ... 2745
54 ... 4174
58 ... 4069
70 ... 4174
81 ... 4174
501 ... 2423
502 ... 2424
701 ... 2833
706 ... 2491
722 ... 3171, 3420
724 ... 2745, 3422, 3507
725 ... 3891
726 ... 2496
729 ... 2645, 2765, 3629
795 ... 3049
811 ... 2659, 3629
905 ... 2660
906 ... 2765, 3049
907 ... 2569, 2927, 3507, 3742, 3891
908 ... 3892
910 ... 2426, 2766, 2834, 3171, 3742, 4070
928 ... 2927
981 ... 3983
982 ... 3630
993 ... 3349
1001 ... 2928, 4175
1002 ... 2929, 4175
1004 ... 2929
1006 ... 2930
1007 ... 2930
1011 ... 2930
1012 ... 2930
1013 ... 2931
1015 ... 2931
1030 ... 2931
1032 ... 2932
1033 ... 2932
1036 ... 2932
1040 ... 2932
1043 ... 2933
1044 ... 2933
1046 ... 2933
1049 ... 2933
1050 ... 2934
1060 ... 2934
1061 ... 2934, 4176
1062 ... 3631
1063 ... 2934
1064 ... 2935
1065 ... 2497, 2935
1068 ... 2935, 4176
1069 ... 2935
1070 ... 2936
1071 ... 2936
1073 ... 2936

7 CFR—Continued

Page

1075 ... 2936
1076 ... 2937
1078 ... 2937
1079 ... 2937
1090 ... 2937
1094 ... 2938, 2944
1096 ... 2938
1097 ... 2938
1098 ... 2938
1099 ... 2939
1101 ... 2939
1102 ... 2939
1103 ... 2939
1104 ... 2940
1106 ... 2940
1108 ... 2940
1120 ... 2940
1124 ... 2940
1125 ... 2941
1126 ... 2941
1127 ... 2941
1128 ... 2941
1129 ... 2942
1130 ... 2942
1131 ... 2942
1132 ... 2942
1133 ... 2943
1134 ... 2943
1136 ... 2943
1137 ... 2943
1138 ... 2944
1427 ... 3742
1806 ... 2879
1822 ... 3801
1823 ... 2879, 3172
1871 ... 2569
1890 ... 3174
1890i ... 3172

PROPOSED RULES:

29 ... 3362
51 ... 3363, 3642
59 ... 2775, 3187
81 ... 2778
220 ... 4091
225 ... 3440
271 ... 3545
724 ... 3438
726 ... 2773
729 ... 2774
906 ... 3643
908 ... 4091
909 ... 3366
945 ... 2844
966 ... 2845
982 ... 2515
987 ... 2890, 3439, 4196
991 ... 3440
993 ... 2515, 3644
1001 ... 3187
1002 ... 3187
1004 ... 4196
1030 ... 4208
1046 ... 2969
1049 ... 4208
1061 ... 3536
1068 ... 3536
1079 ... 3830
1137 ... 3545
1421 ... 2844, 3753
1434 ... 2775
1446 ... 2844
1464 ... 3439
1481 ... 2890
1701 ... 2846, 3546

8 CFR

100 ... 3744
214 ... 2766

8 CFR—Continued

Page

238 ... 2766, 3744
332 ... 2767
332d ... 2767
334 ... 2767
334a ... 2767
339 ... 2767
341 ... 2767
342 ... 2767

9 CFR

11 ... 2426
51 ... 3507
73 ... 2945
76 ... 3600
82 ... 2429, 2498, 3050, 4070
97 ... 2430, 3410
113 ... 2430
204 ... 3631
301 ... 2661
307 ... 4179
311 ... 2661
315 ... 2661
317 ... 4070
350 ... 4179
355 ... 4179

PROPOSED RULES:

316 ... 2779
317 ... 2779

10 CFR

20 ... 3985
30 ... 3985
40 ... 3985
70 ... 3985
71 ... 3985
140 ... 3423

PROPOSED RULES:

50 ... 3646

12 CFR

556 ... 3987
563 ... 3508
701 ... 2946, 3174, 3508

PROPOSED RULES:

207 ... 4097
220 ... 4097
221 ... 4097
225 ... 4098
529 ... 2447
545 ... 3549
750 ... 2594

13 CFR

107 ... 3950
120 ... 2569
123 ... 2947

PROPOSED RULES:

121 ... 3768, 3993

14 CFR

25 ... 3969
37 ... 3973
39 ... 2498, 2570, 2662, 2835, 2880, 3409, 3508, 3631, 3986, 4180
67 ... 4071
71 ... 2570–2572, 2835–2837, 2952, 2953, 3050, 3349, 3409, 3509, 3631, 3632, 3745, 3746, 4072–4075, 4180, 4181
73 ... 2499, 2837, 4075, 4076

37 CFR

	Page
2	2880, 3897
202	3055
PROPOSED RULES:	
1	2520

38 CFR

	Page
0	3435
1	2676
6	4194
8	3352, 4194
9	4194
PROPOSED RULES:	
1	3552

39 CFR

	Page
Ch. I	2423
135	3521
273	3352
619	3056

40 CFR

	Page
1	3898
52	2581
85	2432
106	2433
180	2676, 2839, 2883, 3181, 3352, 3988, 3989
PROPOSED RULES:	
6	3367
80	3882
164	3060

41 CFR

	Page
1–1	4194
1–2	2769
1–7	2769
1–12	2769
1–16	2771
3–1	3353
3–2	3353
5A–1	3182
5A–2	3182
5A–8	2507
5A–72	3183
5A–73	2441, 3183
5B–1	4077
5B–16	4077
6–1	3640
7–1	3521
7–4	3803
7–5	3803
7–7	3803
7–8	3823
7–16	3521, 3823

41 CFR—Continued

	Page
8–14	2508
8–74	2508
9–1	3435
9–5	3435
9–7	3435
9–59	3436
15–1	3989
101–11	2962
101–25	3524
101–27	2771
101–40	3827
114–32	3990
114–38	3990
114–45	3990
PROPOSED RULES:	
14–10	2680
15–9	3764, 4096
50–250	3759
60–7	2847
60–9	3753

42 CFR

	Page
55	3901
PROPOSED RULES:	
51	3759
51b	2970
54	2970
73	3916

43 CFR

	Page
2	2677
25	3183
PUBLIC LAND ORDERS:	
1272 (modified by PLO 5161)	3185
2732 (amended by PLO 5160)	3184
4522 (amended by PLO 5157)	3057
5154	2677
5155	2840
5156	3056
5157	3057
5158	3058
5159	3184
5160	3184
5161	3185
5162	3185

45 CFR

	Page
102	2882
170	2882
1015	2840
PROPOSED RULES:	
118	2779
143	2779
220	2445
222	2445
415	2986

46 CFR

	Page
308	3436
381	3641
542	4081
PROPOSED RULES:	
10	3763
12	3190, 3763
31	3763
66	2681
71	3763
91	3763
176	3763
187	3763
189	3763
193	2682
510	4219

47 CFR

	Page
1	3277, 3991
2	2771, 3437, 4082
15	3277
21	2583, 3277, 3354,
73	3991, 4082
74	3278
76	3278
78	3292
83	2884
91	3297
211	2771
PROPOSED RULES:	
73	2524, 2790, 2891, 3548
76	3190, 3192
81	2524

49 CFR

	Page
173	2885, 3524
174	2886, 3524
177	2886, 3524
178	2886, 3524
179	3058
386	3905
553	3632
571	3185, 3905, 3911
1033	2677, 3354
1211	2841
1311	3354
PROPOSED RULES:	
173	2588
178	2588
1056	3446
1322	3446

50 CFR

	Page
28	2964, 3436
32	3524
33	2441, 2502, 2841, 2964, 2967, 3437
280	2516
PROPOSED RULES:	
17	2589
280	2890

LIST OF FEDERAL REGISTER PAGES AND DATES—FEBRUARY

Pages	*Date*
2411–2482	Feb. 1
2483–2557	2
2559–2636	3
2637–2737	4
2739–2823	5
2825–2867	8
2869–2913	9
2915–3041	Feb. 10
3043–3157	11
3159–3341	12
3343–3401	15
3403–3500	16
3501–3606	17
3607–3732	Feb. 18
3733–3795	19
3797–3884	23
3885–3976	24
3977–4061	25
4063–4131	26
4133–4238	29

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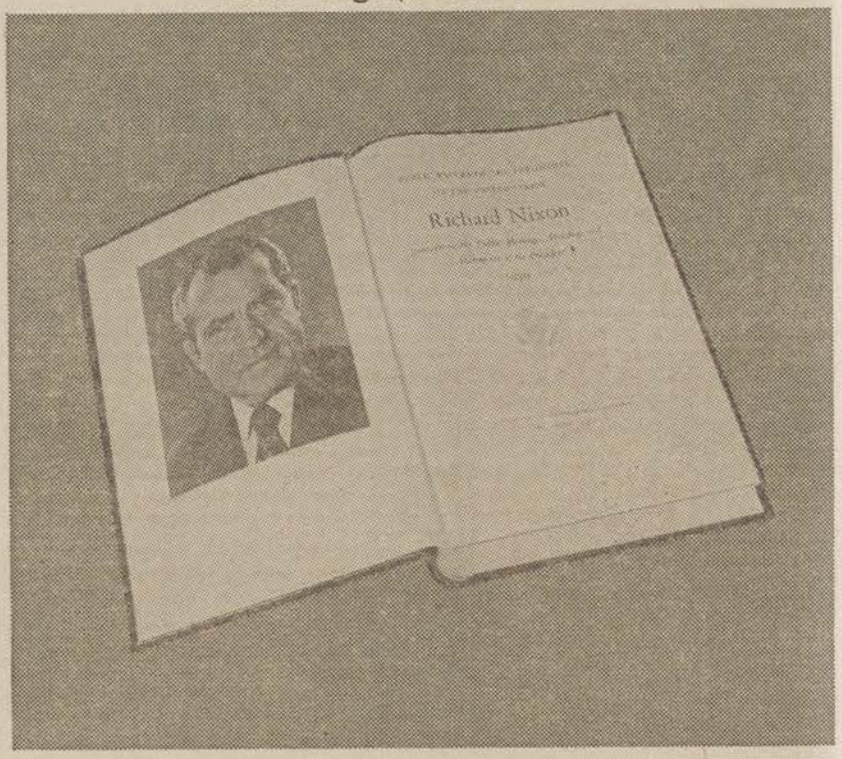

Contents

- Messages to the Congress
- Public speeches and letters
- The President's news conferences
- Radio and television reports to the American people
- Remarks to informal groups

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