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PART I

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HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1972)

Title 21—Food and Drugs (Parts 130–146e)	$3.00
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[A Cumulative checklist of CFR issuances for 1972 appears in the first issue of the Federal Register each month under Title 1]

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Title 7—AGRICULTURE

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PART 20—LIMITATION ON IMPORTS OF MEAT

Revocation of Part

This part contains the regulations issued by the Secretary of Agriculture with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations pursuant to Executive Order 11539, dated June 30, 1970. The regulations were to assist in carrying out bilateral agreements negotiated pursuant to section 204 of the Agricultural Act of 1956, as amended, with governments of foreign countries limiting the export from the respective countries and the importation into the United States of certain meat. The part is being revoked since the agreements for prior years have expired by the terms thereof and the agreements effective for the calendar year 1972 are being suspended.

Part 20 of Subtitle A, Office of the Secretary of Agriculture, of Title 7, Code of Federal Regulations, is revoked.

This action shall become effective upon the filing of this document with the FEDERAL REGISTER.

Issued at Washington, D.C., this 14th day of July 1972.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.72-11128 Filed 7-17-72;3:00 pm]

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

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

Subpart—U.S. Standards for Grades of Apples [1]

COLOR REQUIREMENTS

The U.S. Department of Agriculture hereby amends the U.S. Standards for Grades of Apples (7 CFR 51.300–51.323) to reference newly developed USDA visual aids. These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627) which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

Statement of considerations leading to amendment of the standards. Apple color standards, USDA Visual Aid APL–L–1, consist of a folder containing color requirements set forth in § 51.305 of the standards and five plates illustrating minimum good shade of solid red or striped red color, minimum compensating color and a shade not considered color, for Red Delicious, Winesap, Delicious, McIntosh, and Jonathan varieties, and one plate illustrating minimum white or light green color and characteristic color for the Golden Delicious variety, all referenced in the U.S. Standards for Grades of Apples. These color standards were developed by the John Henry Co., Lansing, Mich., with the collaboration of and approval by the U.S. Department of Agriculture.

The Administrator has designated U.S. Department of Agriculture Visual Aid APL–L–1 (A), (B), (C), (D), (E), and (F), as official color standards and has authorized their manufacture and sale by the John Henry Co.

Section 51.305 is amended by the addition of the following paragraph (a):

§ 51.305 **Color requirements.**

* * * * *

(a) Color standards USDA Visual Aid APL–L–1 (including plates (A), (B), (C), (D), (E), and (F)) consist of a folder containing the color requirements for apples set forth in this section and five plates illustrating minimum good shade of solid red or striped red color, minimum compensating color and a shade not considered color, for Red Delicious, Winesap, Delicious, McIntosh, and Jonathan varieties, and one plate illustrating minimum white or light green color and characteristic color for the Golden Delicious variety. These color standards may be examined in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250; in any field office of the Fresh Fruit and Vegetable Inspection Service; or upon request of any authorized inspector of such Service. Duplicates of the color standards may be purchased from the John Henry Co., Post Office Box 1410, Lansing, MI 48904.

Notice of proposed rule making, public procedure thereon is impractical, unnecessary, and contrary to the public interest in that this amendment is necessary to reference in these grade standards the newly developed color standards illustrating minimum color terms set forth in § 51.305 of the U.S. Standards for Grades of Apples.

It is hereby found that good cause exists for not postponing the effective date of this amendment 30 days beyond the date of publication hereof in the FEDERAL REGISTER, in that: (1) The 1972 packing season for apples will begin about August 1 and it is in the interest of the public and the industry that this amendment be placed in effect before that date; and (2) no special preparation is required for compliance with this amendment on the part of members of the apple industry or of others.

Accordingly, this amendment shall become effective July 25, 1972.

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

Dated: July 17, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-11124 Filed 7-19-72;8.52 am]

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

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Whitefringed Beetle

Correction

In F.R. Doc. 72-10269 appearing at page 13239 of the issue for Thursday, July 6, 1972, the third line of the description for Chesterfield County, Va. (page 13244), now reading "thence northeast along said railroad to its", should read "intersection of State Route 611 (Kingsland".

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

[Valencia Orange Reg. 401]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.701 **Valencia Orange Regulation 401.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee,

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

established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 18, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California, which may be handled during the period July 21 through July 27, 1972, are hereby fixed as follows:

(i) District 1: 276,000 cartons;

(ii) District 2: 348,000 cartons;

(iii) District 3: 101,000 cartons.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: July 19, 1972.

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

[FR Doc.72-11343 Filed 7-19-72;11:34 am]

[Prune Reg. 10]

PART 925—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREG.

Limitation of Shipments

Notice was published in the FEDERAL REGISTER on July 1, 1972 (37 F.R. 13108), that consideration was being given to proposals relative to limitation of shipments of fresh prunes recommended by the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee, established under the marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oreg., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded 10 days for interested persons to submit written data, views, or arguments in connection with said proposals. None were received.

After consideration of all relevant matters presented, including that in the notice and other available information, it is hereby found that the regulation, as hereinafter set forth is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The recommendation of the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee reflects its appraisal of the fresh prune crop and current and prospective market conditions. Shipments of Idaho-Oregon fresh prunes are expected to begin on or about August 7, 1972. The grade and size requirements provided herein are necessary to prevent the handling, on and after August 7, 1972, of prunes of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, while (2) increasing returns to the producers pursuant to the declared policy of the act.

The requirement that fresh prunes be handled in containers holding either less than 20 pounds or 30 pounds or more of prunes, with the exception of the ½-bushel basket, is necessary to standardize the capacities of containers that can be used to ship fresh prunes grown in the production area and prevent deception and misrepresentation of the net weight of prunes commonly contained in such containers. An exception is made for the ½-bushel basket as that container is customarily packed on a volume basis rather than on the basis of weight. Individual shipments of 1,000 pounds or less of fresh prunes are exempted from regulation in that such shipments are primarily more mature prunes sold locally to fruit stands to fill a consumer need for fruit for home canning, and they do not materially affect the demand in commercial channels.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given of the proposed regulation, to become effective August 7, 1972, through publicity in the production area and by publication in the July 1, 1972, issue of the FEDERAL REGISTER; (2) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto; (3) this regulation was unanimously recommended by members of the Idaho-Malheur County, Oregon Fresh Prune Marketing Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views; and (4) shipments are expected to begin on or about August 7, 1972, and this regulation should, insofar as practicable, be applicable to all shipment of prunes in order to effectuate the declared policy of the act.

§ 925.311 Prune Regulation 10.

(a) *Order.* During the period August 7, 1972, through December 31, 1972, no handler shall handle any lot of prunes unless such prunes meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) Minimum grade and size requirements. Such prunes grade at least U.S. No. 1 and are a minimum size of 1⅛ inches in diameter: *Provided,* That prunes which are affected by healed hail marks may be shipped if they otherwise grade at least U.S. No. 1.

(2) Pack of containers. The net weight of prunes in any container, other than the one-half (½) bushel basket shall be either (i) less than 20 pounds, or (ii) 30 pounds or more.

(3) Notwithstanding any other provisions of this regulation, any individual shipment of prunes which, in the aggregate, does not exceed 1,000 pounds net weight may be handled without regard to the restrictions specified in this paragraph (a) or in § 925.41 (Assessment) and § 925.55 (Inspection and Certification) of this Part.

(4) The terms "U.S. No. 1", "diameter", and "hail marks" shall have the same meaning as when used in the U.S. Standards for Fresh Plums and Prunes (7 CFR 51.1520–51.1538); and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

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

Dated: July 17, 1972.

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

[FR Doc.72-11170 Filed 7-19-72;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12055; Amdt. 39–1488]

PART 39—AIRWORTHINESS DIRECTIVES

SIAI Marchetti Models S.205–18/R, –20/R, and –22/R Airplanes

There have been reports of failures of the tubes in the nose gear drag link assembly that could result in the nose gear failing to extend or in the nose gear collapsing during landing on SIAI Marchetti Models S.205–18/R, –20/R, and –22/R airplanes, Serials Nos. 106 through 239. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires repetitive inspections of the tubes and welded area of the nose gear articulated drag brace rear link, and which provides for corrective modification on SIAI Marchetti Models S.205–18/R, –20/R, and –22/R airplanes, Serials Nos. 106 through 239.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SIAI MARCHETTI. Applies to SIAI Marchetti Models S.205–18/R, S.205–20/R, and S.205–22/R airplanes, Serials Nos. 106 through 239.

Compliance required as indicated unless already accomplished.

To detect and prevent cracks in the nose gear drag link assembly, accomplish the following:

(a) Within the next 10 hours' time in service after the effective date of this AD, unless already accomplished within the last 15 hours' time in service, and thereafter at intervals not to exceed 25 hours' time in service from the last inspection, visually inspect the tubes and welded areas of the nose gear articulated drag brace rear link, P/N 205–9–142–03, using a magnifying glass of 5 power or more. If indications of cracks are found, strip the paint from the area and reinspect using a magnifying glass of 5 power or more

(b) If any cracks or breaks are found during the inspections required by paragraph (a), before further flight, remove the nose gear drag brace assembly, P/N 205–9–142–01, and accomplish one of the following:

(1) Install reinforced nose gear drag brace assembly, P/N 205–9–142–05 or P/N 205–9–142–09, in accordance with SIAI-Marchetti Service Bulletin No. 205B12A, dated January 21, 1972, or an FAA-approved equivalent; or

(2) Comply with subparagraph (i) or (ii) of this paragraph, as applicable, in accordance with SIAI-Marchetti Service Instruction No. 205SI–16, dated March 29, 1972, or an FAA-approved equivalent.

(i) For Model S.205–18/R and –20/R airplanes, install press formed nose gear drag brace assembly, P/N 205–9–142–103.

(ii) For Model S.205–22/R airplanes, install press formed nose gear drag brace assembly, P/N 205–9–142–103, and replace the bellcrank, P/N 205–6–062–03, with bellcrank, P/N 205–6–062–107.

(c) The repetitive inspections required by paragraph (a) may be discontinued when a reinforced or press formed nose gear drag brace assembly is installed in accordance with paragraph (b)(1) or (b)(2)(i) for Models S.205–18/R and –20/R airplanes, or when a reinforced nose gear drag brace assembly is installed in accordance with paragraph (b)(1) or a press formed nose gear drag brace assembly and a bellcrank, P/N 205–6–062–107, are installed in accordance with paragraph (b)(2)(ii) for the Model S.205–22/ airplanes.

This amendment becomes effective July 25, 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 Washington, D.C., on July 14, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72–11166 Filed 7–19–72;8:48 am]

[Airspace Docket No. 72–SO–10]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segment

On March 29, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 6407) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would realine a segment of J–75 from Lakeland, Fla., to Columbia, S.C., via Taylor, Fla.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. A comment was received from the Air Transport Association of America (ATA). No other comments were received.

The ATA concurred with the proposal, but requested consideration of an alternative alinement of J–75 from Lakeland to Columbia via the intersection of the Lakeland 350° M and Columbia 203° M radials. However, without the use of Taylor VORTAC in the structure, the Columbia and Lakeland radials would be used for distances of 200 and 167 nautical miles respectively, thereby increasing the route width to be protected to the extent that lateral separation would not be provided from airspace west of Jacksonville, Fla., used for military operations by Cecil NAS. Therefore, the alternative alinement requested by the ATA is not incorporated in this amendment.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., September 14, 1972, as hereinafter set forth.

In § 75.100 (37 F.R. 2382) Jet Route No. 75 text is amended by deleting all before "Greensboro, N.C." and substituting "From Miami, Fla., via the INT of the Miami 297° and the Lakeland, Fla., 175° radials; Lakeland, Fla.; Taylor, Fla.; Columbia, S.C.;" 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 July 13, 1972.

PAUL W. ROBINSON,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.72–11167 Filed 7–19–72;8:48 am]

[Docket No. 12051, Amdt. 821]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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 August 31, 1972.

Chicago, Ill.—Chicago O'Hare International Airport; VOR Runway 22L, Original; Established.
Chicago, Ill.—Chicago O'Hare International Airport; VOR Runway 22L, Original; Established.
Dallas, Tex.—Addison Airport; VOR–A, Amdt. 3; Revised.
Des Moines, Ia.—Des Moines Municipal Airport; VOR–A, Amdt. 16; Revised.
Detroit, Mich.—Willow Run Airport; VOR Runway 5R, Amdt. 3; Revised.
Hazleton, Pa.—Hazleton Municipal Airport; VOR Runway 10, Amdt. 6; Revised.
Hazleton, Pa.—Hazleton Municipal Airport; VOR Runway 28, Amdt. 5; Revised.
Lawrence, Kans.—Lawrence Municipal Airport; VOR/DME–A, Amdt. 3; Revised.
Manistique, Mich.—Schoolcraft County Airport; VOR Runway 27, Amdt. 2; Revised.
Marion, Ill.—Williamson County Airport; VOR Runway 20, Amdt. 4; Revised.
Pompano Beach, Fla.—Pompano Beach Airpark; VOR Runway 14, Original; Established.
Sherman-Denison, Tex.—Grayson County Airport; VOR/DME–A, Amdt. 1; Revised.
Springfield, Ill.—Capital Airport; VOR Runway 22, Amdt. 13; Revised.
Walnut Ridge, Ark.—Walnut Ridge Municipal Airport; VOR–A, Amdt. 8; Revised.
Walnut Ridge, Ark.—Walnut Ridge Municipal Airport; VOR/DME Runway 22, Amdt. 4; Revised.

2. Section 97.25 is amended by establishing, revising, or canceling the following SDF–LOC–LDA SIAP's, effective August 31, 1972.

Des Moines, Ia.—Des Moines Municipal Airport; LOC(BC) Runway 12L, Amdt. 4; Revised.
Helena, Mont.—Helena Airport; LOC/DME Runway 26, Original; Established.
Springfield, Ill.—Capital Airport; LOC(BC) Runway 22, Amdt. 6; Revised.

3. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAP's effective July 10, 1972.

Three Rivers, Mich.—Dr. Haines Airport; NDB Runway 23, Amdt. 3; Revised.

4. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAP's effective August 31, 1972.

Des Moines, Iowa—Des Moines Municipal Airport; NDB Runway 30R, Amdt. 12; Revised.
Hazleton, Pa.—Hazleton Municipal Airport; NDB Runway 28, Amdt. 10; Revised.
Independence, Kans.—Independence Municipal Airport; NDB Runway 35, Amdt. 4; Revised.
Keokuk, Iowa—Keokuk Municipal Airport; NDB Runway 13, Amdt. 5; Revised.
North Sioux City, S. Dak.—Graham Field; NDB Runway 15, Original; Canceled.
Springfield, Ill.—Capital Airport; NDB Runway 4, Amdt. 10; Revised.
Statesboro, Ga.—Statesboro Municipal Airport; NDB Runway 31, Amdt. 1; Revised.

NOTE: Reference Docket No. 12047, Amdt. 818, Page 13615, section 97.27 is corrected to read effective August 10, 1972. (Volume 37, No. 134)

5. Section 97.29 is amended by establishing, revised or canceling the following ILS SIAP's effective August 31, 1972.

Des Moines, Iowa—Des Moines Municipal Airport; ILS Runway 30R, Amdt. 13; Revised.
Greenville, Miss.—Greenville Municipal Airport; ILS Runway 17L, Amdt. 1; Revised.
Santa Ana, Calif.—El Toro MCAS; ILS Runway 34R, Amdt. 4; Revised.
Springfield, Ill.—Capital Airport; ILS Runway 4, Amdt. 15; Revised.

6. Section 97.31 is amended by establishing, revising or canceling the following Radar SIAP's effective August 31, 1972.

Chicago, Ill.—Chicago O'Hare International Airport; Radar–1, Amdt. 24; Revised.
Des Moines, Iowa—Des Moines Municipal Airport; Radar–1, Amdt. 9; Revised.

7. Section 97.33 is amended by establishing, revising or canceling the following RNAV SIAP's effective August 31, 1972.

St. Joseph, Mo.—Rosecrans Memorial Airport; RNAV Runway 17, Original; Established.

(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 July 14, 1972.

C. R. MELVYN, JR.,
Acting Director,
Flight Standards Service.

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.

[FR Doc.72–11165 Filed 7–19–72;8:48 am]

[Docket No. 12049, Amdt. 820]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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 for 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:

Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's, effective August 24, 1972.

Akron, N.Y.—Akron Airport; VOR/DME Runway 24, Original; Established.
Aurora, Oreg.—Aurora State Airport; VOR/DME–1, Amdt. 2; Canceled.
Aurora, Oreg.—Aurora State Airport; VOR-TAC–A, Original; Established.
Harlingen, Tex.—Harlingen Industrial Airpark; VOR Runway 13, Amdt. 2; Revised.
Meadville, Pa.—Port Meadville Airport; VOR Runway 7, Amdt. 1; Revised.
Philadelphia, Pa.—North Philadelphia Airport; VOR runway 6, Amdt. 6; Revised.
Philadelphia, Pa.—North Philadelphia Airport; VOR Runway 24, Amdt. 15; Revised.

Section 97.25 is amended by establishing, revising or canceling the following SDE–LOC–LDA SIAP's effective August 24, 1972.

Birmingham, Ala.—Birmingham Municipal Airport; LOC(BC) Runway 23, Amdt. 5; Revised.
Philadelphia, Pa.—North Philadelphia Airport; LOC(BC) Runway 6, Amdt. 1; Revised.

Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAP's, effective August 24, 1972.

Birmingham, Ala.—Birmingham Municipal Airport; NDB Runway 5, Amdt. 23; Revised.
Birmingham, Ala.—Birmingham Municipal Airport; NDB Runway 23, Amdt. 10; Revised.
Harlingen, Tex.—Harlingen Industrial Airpark; NDB Runway 17R, Amdt. 2; Revised.

Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective August 24, 1972.

Birmingham, Ala.—Birmingham Municipal Airport; ILS Runway 5, Amdt. 28; Revised.
Harlingen, Tex.—Harlingen Industrial Airpark; ILS Runway 17R, Original; Established.
Miami, Fla.—Miami International Airport; ILS Runway 9L, Amdt. 12; Revised.
Philadelphia, Pa.—North Philadelphia Airport; ILS Runway 24, Amdt. 4; Revised.

Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's, effective August 24, 1972.

Philadelphia, Pa.—North Philadelphia Airport; RNAV Runway 15, Amdt. 1; Revised.
Philadelphia, Pa.—North Philadelphia Airport; RNAV Runway 33, Amdt. 2; 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 July 13, 1972.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

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.

[FR Doc.72-11013 Filed 7-19-72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Fluocinolone Acetonide, Dimethyl Sulfoxide Otic Solution, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (45-512V) filed by Syntex Laboratories, Inc., 3401 Hillview Drive, Palo Alto, Calif. 94304 providing for the safe and effective use of fluocinolone acetonide, dimethyl sulfoxide otic solution, veterinary, for the treatment of dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding the following new section:

§ 135a.21 Fluocinolone acetonide, dimethyl sulfoxide otic solution, veterinary.

(a) *Specifications.* Each milliliter of solution contains 0.01 percent of fluocinolone acetonide in 60 percent dimethyl sulfoxide with propylene glycol and citric acid.

(b) *Sponsor.* See Code No. 306 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used in dogs for the relief of pruritis and inflammation associated with acute and chronic otitis.

(2) It is administered at 4 to 6 drops (0.2 milliliter) twice daily into the ear canal for a maximum period of 14 days. The total dosage used should not exceed 17 milliliters. The ear canal should be cleansed by some appropriate method prior to instillation of the solution and the ear should be massaged gently following instillation.

(3) There should be careful initial evaluation and followup of infected ears. Incomplete response or exacerbation of corticosteroid-responsive lesions may be due to the presence of an infection which requires identification or antibiotic sensitivity testing, and the use of the appropriate antimicrobial agent. As with any corticosteroid, animals with a generalized infection should not be treated with this product without proper supportive antimicrobial therapy. Preparations with dimethyl sulfoxide should not be used in pregnant animals. For use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (7-20-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: July 11, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72-11163 Filed 7-19-72;8:50 am]

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Neomycin Sulfate Ophthalmic Ointment, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (44-655V) filed by EVSCO Pharmaceutical Corp., 3345 Royal Avenue, Oceanside, N.Y. 11572, proposing the safe and effective use of neomycin sulfate ophthalmic ointment, veterinary, in dogs and cats. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding the following new section:

§ 135a.28 Neomycin sulfate ophthalmic ointment, veterinary.

(a) *Specifications.* Each gram of the ointment contains 5 milligrams of neomycin sulfate equivalent in activity to 3.5 milligrams of neomycin base.

(b) *Sponsor.* See Code No. 053 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is intended for use in dogs and cats for the treatment of superficial ocular bacterial infections limited to the conjunctival or the anterior segment of the eye.

(2) The drug is applied four times each day.

(3) The drug is applied by inserting the tip of the tube beneath the lower lid and by expressing a small quantity of ointment into the conjunctival sac. The tip of the tube should not come in contact with the eye surface.

(4) Severe infections should be supplemented by systemic therapy.

(5) Prolonged administration of the drug may permit overgrowth of organisms that are not susceptible to neomycin. If new infections due to bacteria or fungi appear during therapy, appropriate measures should be taken.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (7-20-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: July 11, 1972.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.72-11162 Filed 7-19-72;8:49 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7191]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Sales of Low-Income Housing Projects

Correction

In F.R. Doc. 72-10019 appearing at page 12950 of the issue for Friday, June 30, 1972, in the third line from the end of § 1.1039-1(b)(1) insert the words "or constructing" so that the line will read as follows: "in a partnership owning or constructing such a project."

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 675—LUMBER AND WOOD PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp. page 1004), and by means of Administrative Order No. 622 (36 F.R. 19037), and Administrative Order No. 623 (37 F.R. 7004), the Secretary of Labor appointed and convened Industry Committee No. 110-A for the Lumber and Wood Products Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 110-A are hereby published, amending §§ 675.1 and 675.2 of Title 29, Code of Federal Regulations.

1. As amended, § 675.1 reads as follows:

§ 675.1 Definition.

The lumber and wood products industry in Puerto Rico is defined as follows: The logging, wood preserving, and the manufacture of all products made from lumber and wood and related materials, including, but without limitation, sawmill products; planing and plywood mill products; furniture; office and store fixtures; boxes and containers; cooperage; window and door screens and blinds; caskets and coffins; matches; trays, bowls, and other woodenware; excelsior, cork, bamboo, rattan, and willow-ware articles such as hampers, baskets, coasters, and table pads; and charcoal: *Provided, however,* That the industry shall not include any product or activity in the metal, machinery, transportation equipment, and allied products industry (Part 604 of this chapter), the jewelry, decorations, brushes, and novelties industry (Part 613 of this chapter), the construction industry (Part 726 of this chapter), or the paper, paper products, printing, and publishing industry (Part 677 of this chapter).

2. As amended, § 675.2 reads as follows:

§ 675.2 Wage rates.

* * * * *

(a) * * *

(4) *General classification.* (i) The minimum wage for this classification is $1.57 an hour.

* * * * *

(d) *General 1961 coverage classification.* (1) The minimum wage for this classification is $1.57 an hour.

* * * * *

(e) *1966 coverage classification.* (1) The minimum wage for this classification is $1.57 an hour.

* * * * *

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; 29 U.S.C. 205, 206, 208)

Effective date. This amendment shall become effective upon the expiration of 15 days after the date of publication.

Signed at Washington, D.C., this 17th day of July 1972.

HORACE E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.72-11202 Filed 7-19-72;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PART 4-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Public Utility Services; Advance Payments

This amendment involves matters relating to agency management and to contracts and includes rules interpreting and implementing existing regulations of other Federal agencies which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. It is in the public interest that these provisions be made effective immediately. Accordingly, in accordance with the Secretary's statement of policy (36 F.R. 13804) it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest.

Section 4-4.50 is revised to add paragraph (a) regarding advance payments as follows:

§ 4-4.450 Payments for public utility services.

Each agency shall provide procedures which will insure verification by responsible employees that the services have been rendered for the periods stated on the invoice or statement. (See 7 AR 90-1 and 7 AR 93b for payment of public utility services.)

(a) Advance payments for public utility connection charges may be authorized to States, counties, municipalities, or other responsible political subdivisions. Funds so authorized should be advanced in amounts as close to the actual immediate needs as administratively possible (see 7 AR 94).

Effective date. Upon publication in the FEDERAL REGISTER (7-20-72).

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

T. M. BALDAUF,
Director of Plant and Operations.

[FR Doc.72-11208 Filed 7-19-72;8:52 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19343]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Vessel Bridge-to-Bridge Radiotelephones; Correction

In the matter of amendment of Parts 81 and 83 of the Commission's rules to implement the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act (Public Law 92-63). Docket No. 19343.

The FCC report and order in Docket No. 19343, FCC 72-450, which was published in the FEDERAL REGISTER of June 6, 1972 (37 F.R. 11245) is corrected in the following respects:

The last sentence of paragraph 34 in the document is corrected to read: "The suggestion has merit and the sentence has been added to the previously published version of section 83.725."

In the Appendix, the text of § 83.725 is corrected by adding the following sentence at the end of the section: "The Master shall exercise due diligence to restore it or cause it to be restored to effective operating condition at the earliest practicable time."

Released: July 14, 1972.

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

NOTE: Rules changes herein will be covered by T.S. IV(71)-1.

[FR Doc.72-11209 Filed 7-19-72;8:52 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Parker River National Wildlife Refuge, Mass.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (7-20-72).

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

MASSACHUSETTS

PARKER RIVER NATIONAL WILDLIFE REFUGE

Federal Register Document 72-6018, published at page 7795 in the issue dated Thursday, April 20, 1972, is amended by adding the following paragraph.

The possession of any drugs or substances, or immediate precursors, identified in Schedules I, II, III, IV, or V of Part B of the Controlled Substances Act, 21 U.S.C. 812, or any drugs or substances added to these schedules pursuant to the terms of the Act, is prohibited on the refuge, unless such drugs or substances were obtained in accordance with law. Presence in the refuge when under the influence of a controlled substance to a degree that may endanger oneself, or another person, or property, or may cause unreasonable interference with another person's enjoyment of the refuge, is prohibited.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JULY 14, 1972.

[FR Doc.72-11154 Filed 7-19-72;8:47 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table. This entry differs from prior entries to the table in that a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program. The entry reads as follows:

§ 1914.4 **List of eligible communities.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Colorado	Jefferson	Lakewood	I 08 059 1435 01 through I 08 059 1435 03	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, CO 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	City Engineer's Office, city of Lakewood, 1580 Yarrow St., Lakewood, CO 80215.	Apr. 16, 1971. Emergency. July 21, 1972. Regular.
New Jersey	Morris	Florham Park Borough.				July 21, 1972. Emergency.
New Mexico	Eddy	Carlsbad				Do.
Pennsylvania	Bucks	Falls Township				Do.
Tennessee	Loudon	Lenoir City	I 47 105 1370 02 through I 47 105 1370 05	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Office of the Mayor, City of Lenoir City, Lenoir City, Tenn. 37771.	Dec. 7, 1971. Emergency. July 21, 1972. Regular.
Texas	Cameron	Laguna Vista	I 48 061 3792 01	Texas Water Development Board, Post Office Box 13087, Capitol Station, Austin, TX 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Village Hall, village of Laguna Vista, Laguna Vista, Tex. 78578.	Aug. 17, 1971. Emergency. July 21, 1972. Regular.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971)

Issued: July 14, 1972.

BERNARD V. PARRETTE,
Acting Federal Insurance Administrator.

[FR Doc.72-11082 Filed 7-19-72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

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

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Colorado	Jefferson	Lakewood	H 08 059 1435 01 through H 08 059 1435 03	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, CO 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	City Engineer's Office, city of Lakewood, 1580 Yarrow St., Lakewood, CO 80215.	Apr. 16, 1971.
New Jersey	Morris	Florham Park Borough.				July 21, 1972.
New Mexico	Eddy	Carlsbad				Do.
Pennsylvania	Bucks	Falls Township				Do.
Tennessee	Loudon	Lenoir City	H 47 105 1370 02 through H 47 105 1370 05	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Office of the Mayor, city of Lenoir City, Lenoir City, Tenn.	Dec. 7, 1971.
Texas	Cameron	Laguna Vista	H 48 061 3792 01	Texas Water Development Board, Post Office Box 13087, Capitol Station, Austin, TX 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Village Hall, Village of Laguna Vista, Laguna Vista, Tex. 78578.	Aug. 17, 1971.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971)

Issued: July 14, 1972.

BERNARD V. PARRETTE,
Acting Federal Insurance Administrator.

[FR Doc.72–11083 Filed 7–19–72;8:45 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

CHRISTMAS TREES [1]

Proposed Standards for Grades

Notice is hereby given that the U.S. Department of Agriculture is considering the revision of U.S. Standards for Grades of Christmas Trees (7 CFR 51.3085–51.3104). These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same, in duplicate, not later than August 15, 1972, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public review during official hours of business (7 CFR 1.27(b)).

Statement of considerations leading to the proposed revision of the standards. The U.S. Standards for Grades of Christmas Trees were last revised effective June 15, 1962.

Members of the National Christmas Tree Growers Association recognize that the grade standards are not being used by many members of the industry due to the interpretation of several requirements in the standards.

A National Christmas Tree Growers Association Grades Committee was established and spent 2 years developing recommendations for improving the grade standards after contacting a number of the larger growers and handlers of Christmas trees.

The committee is confident that the standards will be more widely used throughout the industry if the recommendations are adopted.

Following are the principal proposed changes in the standards, based on suggestions of the industry committee:

1. The U.S. Premium grade would be deleted.

2. A requirement of "well shaped" would be added to each grade. "Well shaped" would be defined.

3. Specifications would be added limiting, unless otherwise specified, both minimum and maximum lengths of the handle to not less than 6 inches, or more than 1¾ inches for each foot of tree height. Tolerances for off-length handles are included.

4. Tree size would be stated in terms of feet or in half-foot steps rather than steps of 1 foot, and color codes may be used to designate respective sizes.

5. Moss and lichen growth would be deleted from the definitions of clean and fairly clean.

6. Definitions of "taper" would be judged from general shape of tree with no modification due to specie. Definition of "flaring" would be changed from "cone with base more than 70 percent of height" to "more than 90 percent of height." Definition of "normal" would be changed from "40 to 70 percent" to "40 to 90 percent." No change in definition of "candlestick taper."

In addition the format of the standards would be changed and other changes in arrangement and wording would be made in the interest of clarity and readability.

The proposed standards, as revised, are as follows:

GENERAL

Sec.
51.3085 General.

GRADES

51.3086 U.S. No. 1 or U.S. Choice.
51.3087 U.S. No. 2 or U.S. Standard.

CULLS

51.3088 Culls.

SIZE

51.3089 Size.

TOLERANCES

51.3090 Tolerances.

DEFINITIONS

51.3091 Fresh.
51.3092 Clean.
51.3093 Healthy.
51.3094 Well shaped.
51.3095 Butt trimmed.
51.3096 Density.
51.3097 Taper.
51.3098 Face.
51.3099 Fairly clean.
51.3100 Handle.
51.3101 Height.
51.3102 Damage.

METRIC CONVERSION TABLE

51.3103 Metric conversion table.

AUTHORITY: The provision of these sections 51.3085 to 51.3103 issued under secs. 202–208, 60 Stat. 1087, as amended; (7 U.S.C. 1621–1627).

GENERAL

§ 51.3085 General.

The standards contained in this subpart are applicable to sheared or unsheared trees of the coniferous species which are normally marketed as Christmas trees. The large majority of the Christmas trees marketed are one of the following species: Douglas-fir (Pseudotsuga Menziesii); Balsam fir (Abies balsamea); Black spruce (Picea mariana); Eastern red cedar (Juniperus virginiana); White spruce (Picea glauca); Scotch pine (Pinus sylvestris); Norway spruce (Picea excelsa); Red pine (Pinus resionsa); Eastern White pine (Pinus strobus); and Red spruce (Picea rubens).

GRADES

§ 51.3086 U.S. No. 1 or U.S. Choice.

"U.S. No. 1 or U.S. Choice" consists of trees which meet the following requirements.

(a) Characteristics typical of the species;
(b) Fresh;
(c) Clean;
(d) Healthy;
(e) Well shaped;
(f) Butt trimmed;
(g) Not less than medium density;
(h) Normal taper;
(i) Handle length, unless otherwise specified, may be not less than 6 inches or more than one and three-quarters inches, for each foot of tree height;
(j) Three or more faces;
(k) Free from damage by any cause.
(l) For size see § 51.3089.
(m) For tolerances see § 51.3090.

§ 51.3087 U.S. Number 2 or U.S. Standard.

"U.S. No. 2 and U.S. Standard" consists of trees which meet the following requirements:

(a) Characteristics typical of the species;
(b) Fresh;
(c) Fairly clean;
(d) Healthy;
(e) Well shaped;
(f) Butt trimmed;
(g) Light or better density;
(h) Candlestick, normal or flaring taper;
(i) Handle length, unless otherwise specified may be not less than 6 inches or more than one and three quarters inches, for each foot of tree height.
(j) Two or more adjacent faces;
(k) Free from damage by any cause.
(l) For size see § 51.3089.
(m) For tolerances see § 51.3090.

CULLS

§ 51.3088 Culls.

"Culls" consist of individual trees which fail to meet the requirements of the U.S. No. 2 or U.S. Standard Grade.

SIZE

§ 51.3089 Size.

Size of trees shall be stated in terms of height in foot or half-foot steps, and unless otherwise specified the stated color codes may be used to designate the respective sizes.

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

Purple tag---	4	to 5	feet.
Blue tag-----	4	to 5½	feet.
Yellow tag---	5	to 6	feet.
Red tag -----	5½	to 7	feet.
Orange tag---	6	to 7	feet.
Green tag---	7	to 8	feet.
White tag----	8	to 10	feet.

TOLERANCES

§ 51.3090 Tolerances.

In order to allow for variations incident to proper sizing, grading, and handling in each of the foregoing grades the following tolerances, by count, shall apply when a lot of Christmas trees are required to meet a specified grade.

(a) *Off-size.* Not more than 10 percent of the trees in any lot may be less than the height specified.

(b) *Off-length handle.* Twenty percent for trees which fail to meet the requirement for handle length but which meet all other requirements for the specified grade.

(c) *Defects.* Ten percent for trees which fail to meet remaining requirements of the grade: *Provided,* That for the U.S. No. 1 or U.S. Choice grade not more than one-half of this amount, or 5 percent, shall be allowed for trees which fail to meet the requirements for the U.S. No. 2 or U.S. Standard grade.

DEFINITIONS

§ 51.3091 Fresh.

"Fresh" means that the needles are pliable and generally firmly attached with not more than slight shattering.

§ 51.3092 Clean.

"Clean" means that the tree is practically free from vines or other undesirable foreign material.

§ 51.3093 Healthy.

"Healthy" means that the foliage possesses a thrifty, fresh, natural appearance characteristic of the species.

§ 51.3094 Well shaped.

"Well shaped" means that the tree is not flat on one side and the branches of the tree, whether sheared or unsheared are of sufficient number and length to form a circular outline tapering from the lowest whorl of branches to the top.

§ 51.3095 Butt trimmed.

"Butt trimmed" means that all barren branches below the first whorl of branches shall have been removed, and the butt of the trunk has been smoothly cut at approximately right angles to the trunk.

§ 51.3096 Density.

"Density" means the amount of foliage present. Factors contributing to the degree of density are: The number and size of branches within the whorl, distance between whorls, number and arrangement of branchlets on each branch, the extent of internodal branching, needle arrangement, and needle length. Species differ in their habit of growth and some species do not have internodal branches. Density is judged on the basis of species characteristics.

Medium density. Means that the whorls or branches are relatively close together, the branchlets or side branches are fairly numerous and the needle population is adequate to cover the branches. The stem may be visible, but not distinctly visible throughout most of its length. To grade U.S. No. 1 or U.S. Choice trees must possess at least "medium density."

Light density. Means that the whorls or branches may be thinly spaced, the branchlets or side branches may be only reasonably numerous, but the needle population must be adequate to reasonably cover the branches. The stem is usually visible for approximately 70 percent of its length. To grade U.S. No. 2 or U.S. Standard trees must have at least "light density." Trees that are more open or which do not meet the requirements of "light density" are culls.

§ 51.3097 Taper.

"Taper" means the relationship of the width of the tree to its height. "Flaring," "normal," and "candlestick" taper are the terms used to describe degrees of taper. At least 75 percent of the branch ends must touch or overlap the line of the cone.

(a) Flaring taper, means the general shape of the tree, judged from its best side, forms a cone, the base of which is more than 90 percent of its height.

(b) Normal taper, means the general shape of the tree, judged from its best side, forms a cone, the base of which is from 40 to 90 percent of its height.

(c) Candlestick taper, means the general shape of the tree judged from its best side, forms a cone, the base of which is less than 40 percent of its height.

§ 51.3098 Face.

"Face" means the visible surface area of a tree as viewed from a distance of 8 to 10 feet from the tree. A tree shall be considered as having four faces, each consisting of one-quarter of the surface area of the tree.

§ 51.3099 Fairly clean.

"Fairly clean" means that the tree is moderately free from vines or other undesirable foreign material.

§ 51.3100 Handle.

"Handle" means that portion of the trunk between the butt or base of a tree and the lowest complete whorl of foliated branches.

§ 51.3101 Height.

"Height" means that for all trees, the distance from the butt or base of the trunk to the top of the main leader or stem, may not exceed 4 inches above the apex of the cone of the taper applicable to the tree.

§ 51.3102 Damage.

"Damage" means any specific noticeable defect described, or listed in this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the appearance or shipping quality of the Christmas tree.

(a) The following are noticeable defects which generally affect one or more faces and are usually readily observed by casual observation of a tree:

(1) Decided gap (abnormal space between whorls of branches).
(2) Unduly long branches.
(3) Uneven density.
(4) Weak branches.
(5) Broken branches.
(6) Barren lower whorl (no needles on branches of bottom whorl).
(7) Curved stems.
(8) Hole in tree (lack of branches or foliage and appears as an opening of considerable size).
(9) Excessively long main leader (when the main leader or stem above top whorl of branches is not proportionate to the overall tree height).
(10) Incomplete whorl of branches.
(11) Handle not proportionate to height of tree.

(b) The following are defects which individually or in combination with other defects may materially detract from the appearance or shipping quality of a tree to the same degree as the noticeable defects listed above.

(1) Multiple leaders.
(2) Crow's-nest (cluster of short branches which forms a compact nest-type whorl arrangement).
(3) Multiple main stems.
(4) Gooseneck (greater than usual distance between 2 whorls of branches).
(5) Noticeable presence of galls on the branches.
(6) Abnormal loss of needles.
(7) Abnormal curling of needles.
(8) Noticeable presence of dead twigs.
(9) Vines.
(10) Foreign material.

METRIC CONVERSION TABLE

§ 51.3103 Metric conversion table.

Inches	*Millimeters (mm.)*
¼ equals	6.4
½ equals	12.7
¾ equals	19.1
1 equals	25.4
1½ equals	38.1
2 equals	50.8
2½ equals	63.5
3 equals	76.2
3½ equals	88.9
4 equals	101.6
5 equals	127.0
6 equals	152.4
7 equals	177.8
8 equals	203.2
9 equals	228.6
10 equals	254.0
11 equals	279.4
12 equals	304.8

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

JULY 13, 1972.

[FR Doc.72-11178 Filed 7-19-72;8:51 am]

[7 CFR Part 58]

DAIRY PRODUCTS; INSPECTION AND GRADING SERVICES

Additional Time for Comments

On June 8, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 11476) to revise

the "Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products," Part 58, Subpart A, §§ 58.1–63.

The proposed revision would limit appeals on original inspection or grading of contaminated products to a review of the sampling procedures and a reinspection of the official sample. The proposed changes also would update some of the wording in the present regulations to reflect current inspection and grading practices and organizational structure.

The notice provided interested parties until July 10, 1972, the opportunity to submit comments. Requests were received to provide additional time for comments. Therefore, notice is hereby given that the time for submitting comments on the above-designated matter is extended to and including September 6, 1972.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed revisions should file the same in duplicate not later than September 6, 1972, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public inspection during official hours of business.

Dated: July 14, 1972.

E. L. PETERSON,
Administrator.

[FR Doc.72-11205 Filed 7-19-72;8:52 am]

[7 CFR Part 910]

LEMONS GROWN IN CALIFORNIA AND ARIZONA

Proposed Prorate Bases and Allotments

Notice is hereby given that the Department is considering proposed amendments, as hereinafter set forth, to certain rules and regulations (Subpart—Rules and Regulations; 7 CFR Part 910.100 et. seq.) currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The amendments to said rules and regulations were proposed unanimously by members of the Lemon Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof. The proposed amendments reflect the committee's evaluation of industry operations during 1971–72 fiscal year under the current provisions of paragraphs (a), (c), and (e) of § 910.153.

The first proposal is to amend subparagraph (4) of § 910.153(a) *Application for a prorate base and allotment* by including "and the proposed picking schedule" in the reporting requirements of the subparagraph. The information obtained pursuant to these provisions forms the basis upon which the committee makes decisions regarding the computation of prorate base and granting allotment. The availability of "picking schedule" information will be necessary in connection with operations under the amended provisions of (1) § 910.153(a)(6)—longer or shorter individual prorate base period; (2) § 910.153(e)(3)—establishment of individual handler's seasonal midweek for purposes of adjusting average weekly picks; and (3) § 910.153(e)(5)—repayment of upward adjustment of weekly picks.

The second proposal is to amend subparagraph (6) of § 910.153(a) by adding a new second sentence containing the revised provisions of the existing third sentence which would be deleted. The change would involve primarily the handlers in Districts 1 and 3 by specifying that any such handler desiring to have a prorate base period longer or shorter than that specified in the order for the applicable district must submit an application to the committee not less than 3 weeks prior to picking or receiving lemons, other than off-bloom lemons. Currently, handlers in all districts are required to submit such requests at the time of application for prorate base, i.e., about 3 weeks before the beginning of each fiscal year (August 1). District 2 handlers would still be required to submit request for adjusted prorate base periods at the time of submitting their applications for prorate base and allotment. Individual handlers in Districts 1 and 3 begin to pick and receive lemons later in the calendar year and on varying dates. Under the proposal they would not be required to decide upon the length of their prorate base period (for purposes of computing average weekly picks) so far in advance of maturation and harvest of the fruit.

The third proposal is to amend § 910.153(c) *Average weekly pick computation* by adding provisions that would change the manner of computing average weekly picks for handlers in Districts 1 and 3. Under the order provisions of § 910.53(d)(2) a special computation of average weekly picks is made for handlers in those districts. Order operations have shown that such handlers who completed seasonal operations within the length of the applicable prorate base period, or sooner, received disproportionately large prorate base and allotments when such were computed as a percentage of their total available lemons. Under the proposal the computation of average weekly picks would be revised downward for handlers whose seasonal operations were of relatively short duration so that their prorate base (as a percentage of picks) would approximate the prorate base computed for handlers who operate during the whole season.

The fourth proposal is to delete the last sentence in § 910.153(e)(3) *Granting of upward adjustments for Districts 1 and 3 applicants* and insert in lieu thereof certain new provisions for establishing the middle week of the season for any Districts 1 or 3 handler who receives an upward adjustment in his average weekly picks. In such cases, a middle week is established, by the committee, as an ending date for the upward adjustments and the beginning of repayment of such adjustments. The foreknowledge of their middle week also serves as a guideline to any handlers involved by helping them plan repayment of said upward adjustments through appropriate scheduling of their weekly picking and delivery operations during the last half of their seasonal operations.

The new provisions would include and describe considerations, other than the past 3 years of picking performance, that the committee could use as a basis for establishing a middle week more representative of a requesting handler's anticipated seasonal picking schedule. Current inclusion of the 3-year picking pattern would be retained as a possible basis of consideration for establishing the middle week for handlers. Order operations have shown that the present method of establishing the middle week for many handlers does not make adequate provisions for the fact that they are still earning allotment after their picking operations are finished. Consequently, this proposed change aims to (1) reduce the resulting forfeiture of allotment and (2) reduce the necessity for another alternative—large amounts of interdistrict allotment loans and repayments.

The fifth proposal is to designate the existing provisions of § 910.153(e)(5) *Repayment of upward adjustments* as subdivision (i) thereof and add new subdivisions (ii) and (iii). The new subdivisions would contain provisions giving handlers in Districts 1 and 3 longer periods for repayment of upward adjustments in average weekly picks. Order provisions of § 910.53(f)(1) specify that such upward adjustments may be granted for periods up to 8 weeks prior to the middle week of the season. Conversely, the present provisions of § 910.153(e)(5) specify that repayment of such adjustment in all districts shall be in the same quantity and the same order as the upward adjustments were granted. Order operations have shown that handlers are reluctant to request upward adjustment of average weekly picks which would have to be repaid considerably sooner than the end of picking because the remaining weekly picks are

not available to repay the upward adjustment in such instances. Another undesirable consequence of current repayment requirements is the reduction of weekly allotments to the repaying handlers during a period when their lemons are in satisfactory condition for the fresh market followed by larger allotments for less desirable lemons after repayments are completed. Said experience has further shown that a substantial portion of the repayments were concentrated with a 2- to 3-week period which actions do not contribute to the orderly marketing of lemons. Handlers still would be required to make repayments during consecutive weeks and to accelerate repayments when the committee deems such acceleration necessary to assure full repayment. The proposal would thus allow considerably more flexibility in scheduling repayment requirements if a requesting handler could demonstrate to the committee that he had sufficient remaining picks (weekly pick averages) to assure repayment of his upward adjustments.

The proposals are as follows:

The provisions of paragraphs (a)(4), (6), (c), (e)(3), and (5) of § 910.153 are revised to read as follows:

§ 910.153 Prorate bases and allotments.

(a) * * *

(4) The estimated production and the proposed picking schedule of lemons for the current season which the applicant owns or controls, and the bearing and nonbearing acreage of such lemons, including the acreage and number of trees planted to lemons during the preceding fiscal year, and the acreage and number of trees taken out of production during such fiscal year.

* * * * *

(6) If a handler desires a prorate base period different than that generally prevailing in the district in which the lemons are produced as provided in § 910.53(g) he shall so specify and present information showing how his operations with respect to such lemons are substantially different than those generally prevailing in such district, including differences in: (i) Production, such as the time when lemons under his control are mature and ready to harvest; (ii) storage, such as the capacity and type of his storage facilities; and (iii) marketing practices, such as the interval of time between harvesting and marketing of lemons. In the case of District 2, requests for such adjustment must be at the time the handler submits his application for a prorate base and allotment, and in the case of Districts 1 and 3, requests must be made 3 weeks prior to the time the handler first picks and delivers lemons, other than off-bloom lemons covered by § 916.61a. Based upon such information and information otherwise available, the committee shall determine the extent to which the handler should be granted a different prorate base period and notify the handler of its determination.

* * * * *

(c) *Average weekly pick computation.* Average weekly picks shall be computed pursuant to § 910.53 as adjusted by the provisions of paragraphs (a)(6), (d), and (e) of this § 910.153 except that for any handler of lemons produced in District 1 or 3 the provisions of § 910.53(d)(2) are modified as follows pursuant to § 910.53(h):

(1) For the initial number of consecutive weeks after the beginning of such handler's new season, equal to the number of weeks in the applicable prorate base period or as such base period has been modified pursuant to paragraph (a)(6) of this section, the average weekly pick computed for the first week of picks and succeeding weeks shall be computed as follows:

(i) The total quantity picked and delivered to the handler in the first week divided by 1 week less than the number of weeks in the prorate base period multiplied by one-half the number of weeks as determined by the committee that the lemons will be substantially picked and delivered to the handler but not to exceed 1 week less than the number of weeks in the prorate base period.

(ii) The total quantity picked and delivered to the handler in the first and second weeks divided by 2 and then divided by 1 week less than the number of weeks in the prorate base period multiplied by ½ the number of weeks as determined by the committee that lemons will be substantially picked and delivered to the handler but not to exceed 1 week less than the number of weeks in the prorate base period.

(iii) The total quantity picked and delivered to the handler in the first 3 weeks and succeeding weeks (until the total number of the most recent weeks equals the total number of weeks in such handler's applicable prorate base period) divided by the total weeks of picks and deliveries so included and then divided by 1 week less than the number of weeks in the prorate base period for the district and multiplied by ½ the number of weeks, as determined by the committee, that lemons will be substantially picked and delivered to the handler but not to exceed 1 week less than the number of weeks in the prorate base period for the district.

(2) On the basis of the computation of the handler's average weekly pick, the committee shall fix a prorate base for each handler who is entitled thereto. Each such prorate base shall represent the ratio between the average weekly pick for each applicant handler and the total of such average weekly picks for all applicant handlers.

* * * * *

(e) * * *

(3) *Granting of upward adjustment for Districts 1 and 3 applicants.* Upon receiving a duly filed application for an upward adjustment by a District 1 or 3 handler pursuant to § 910.53(f)(1) the committee shall adjust the average weekly pick of such handler by increasing such picks in the amount requested, but not in excess of 50 percent of his average weekly pick. Such adjustment may be granted for any 1 or more weeks (not exceeding eight) during the period beginning with the first week of the initial prorate base period of a season for which the handler's average weekly pick is computed and ending not later than the middle week of such handler's picking season. The committee shall determine such middle week, to the extent practicable, on the basis of the handler's performance for the last 3 fiscal years except where such handler's anticipated picking pattern for the current fiscal year is substantially different than his historical performance, in which case the committee may establish a middle week on the basis of some other time period deemed by the committee to be more representative of such handler's anticipated picking pattern for the current fiscal year.

* * * * *

(5) *Repayment of upward adjustments.* (i) * * *

(ii) District 1 and District 3 handlers who deem it impracticable to repay upward adjustments in 8 consecutive weeks commencing with the week following their middle week as provided in subdivision (i) of this subparagraph may apply to the committee for a different repayment schedule. Applications for different repayment schedules must be filed with the committee on LAC Form 101B in accordance with § 910.106(b) not later than 3 weeks prior to the week during which such repayments would commence. LAC Form 101B shall contain the following information:

(*a*) The name and address of the applicant;

(*b*) The applicant's anticipated picking program for the balance of the season, including the applicant's estimate as to the number of field boxes of lemons remaining to be picked and delivered;

(*c*) The applicant's middle week and the week when the applicant will substantially complete picking and delivering lemons;

(*d*) The reasons why it would be impracticable for the applicant to make repayment of anticipated upward adjustments as provided in subdivision (i) of this subparagraph, and

(*e*) The applicant's requested repayment schedule in terms of the weeks of picking and delivering lemons and of the amount of weekly repayments.

(iii) Based upon the information contained in LAC Form 101B and such other information as the committee deems pertinent, the committee shall act upon such application and may grant the repayment schedule requested. The committee shall normally require repayment by the end of the week when the applicant substantially completes his last picks and deliveries of lemons for the season but may, in exceptional cases where it deems circumstances require and it is determined that the applicant will carry forward sufficient credit for

picks and deliveries, extend the repayment schedule beyond such time. Handlers shall be promptly notified of the committee's action.

Dated: July 14, 1972.

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

[FR Doc.72-11176 Filed 7-19-72;8:50 am]

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Expenses and Rate of Assessment

Consideration is being given to the approval of the proposed expenses and rate of assessment, hereinafter set forth, which were recommended by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946), both as amended (37 F.R. 10915).

This marketing order program regulates the handling of Irish potatoes grown in Washington, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

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

The proposals are as follows:

§ 946.225 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning June 1, 1972, and continuing through June 30, 1973, by the State of Washington Potato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $8,725.

(b) The rate of assesment to be paid by each handler in accordance with the said marketing agreement and this part shall be one-tenth cent ($0.001) per hundredweight, or equivalent quantity, of potatoes handled by him as the first handler thereof during said fiscal period: *Provided,* That potatoes for canning, freezing, and "other processing" as defined in the act shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period beginning June 1, 1972, and continuing through June 30, 1973, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

Dated: July 17, 1972.

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

[FR Doc.72-11206 Filed 7-19-72;8:53 am]

[7 CFR Part 1036]

[Docket No. AO 179-A36]

MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the hearing clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania 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 agreement and to the order as amended, were formulated, was conducted at Cleveland, Ohio, on January 25-28, 1972, pursuant to notice thereof which was issued January 7, 1972 (37 F.R. 465).

The material issues on the record of the hearing relate to:

1. Pool plant qualifications.
2. Diversion of producer milk.
3. Location adjustments.
4. Butterfat differentials.
5. Class I price.
6. Classification provisions.
7. Miscellaneous and conforming changes.

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. *Pool plant qualifications.* (a) *Balancing plant.* A milk processing plant that is operated by a cooperative and is approved by a duly constituted health authority to handle milk for fluid consumption should be accorded pool plant status if, during the month, a quantity of fluid milk products that is not less than a specified percentage (65 percent in September–April and 50 percent in other months) of its producer members' milk is received at pool distributing plants, either by direct delivery from the producers' farms or as a shipment from the cooperative's supply plant.

Enabling such a plant to qualify as a pool plant was proposed by a principal cooperative in the market. There was no opposition to the proposal at the hearing.

A plant operated by the proponent cooperative, which now must qualify for pooling by meeting the pooling requirements for a supply plant, serves the market as a "balancing plant." In that capacity it enables proprietary plant operators to tailor their receipts each day to their bottling needs. A bottling plant that receives milk by direct delivery from the farms of designated producer members of the cooperative may accept a part or none of such deliveries on any day. That is, the total deliveries of such producers on the days the bottling plant is not operated, and the amounts in excess of its Class I needs on other days, are received at the cooperative's plant. When the direct deliveries of the producers assigned to such plants are inadequate for its needs, the bottling plant obtains from the cooperative's plant supplemental supplies for the balance of its needs.

The cooperative claims that it is becoming increasingly difficult to qualify its plant for pooling on the basis of its shipping performance as a supply plant. This is because the cooperative's plant is operating mainly as an equalizing, or balancing, plant in handling the reserve supplies associated with the Class I requirements of the increasing number of pool distributing plants it serves. Under these circumstances, the cooperative contends, to continue to require its balancing plant to qualify under the pooling requirements of a supply plant will force it to make unnecessary and uneconomic movements of milk.

The balancing plant now serving the market (which now qualifies for pooling as a supply plant) used 246 million pounds of milk for manufacturing in 1971. This represented supplies that were not needed by buying handlers for Class I purposes. As might be expected, the quantities of milk used for manufacture at this plant were lowest during those months of the year when the market's Class I sales were highest relative to producer deliveries. Conversely, the quantities of milk utilized in the balancing

plant for manufacture were highest in the months when the Class I needs of the market were lowest relative to production. In 1971 the average daily quantity of milk utilized for manufacture at the balancing plant was 1,015,000 pounds in May through August, and 502,000 in the other 8 months of the year.

Requiring that a quantity of fluid milk products that is at least 65 percent of a cooperative's member producer milk received at pool plants during the month, either by direct delivery from such members' farms or as a shipment from the cooperative's balancing plant, is a reasonable basis to qualify such plant for pooling in September through April. In the months of May through August, when the quantity of reserve milk in the pool is substantially greater than that in the other months, a 50-percent requirement (instead of 65 percent) to qualify a balancing plant to pool is an appropriate basis for determining association with the market.

In proposing the above percentages, the proponent cooperative stated that the pool distributing plants that it supplies are basically Class I operations. As a consequence, the percentages listed above would tend to approximate the actual utilization of the milk of their producer members. Percentages proposed by the cooperative and herein adopted also approximate the Class I utilization for the total market for the months to which they apply.

It was not indicated that any plant other than the proponent's is now serving the market as a balancing plant. Proponent stated, however, that its proposal is intended to enable any cooperative to pool one or more of its plants that meet the requirements herein adopted.

A cooperative should be permitted to qualify two or more plants with manufacturing facilities for pooling as balancing plants if such plants collectively meet the standards herein adopted. The balancing plant function performed by a cooperative for the market would in no way be diminished, and might even be enhanced, if two or more plants were considered as a unit to qualify them for pooling as balancing plants.

Enabling a cooperative's balancing plant to obtain pool-plant status under the conditions adopted in this decision will contribute to the orderly marketing of producer milk under the order. When the production of dairy farmers regularly supplying the market is not needed at the bottling plant to which it is usually assigned, their milk will be pooled by delivery to the balancing plant. The plant thus is an assured outlet for reserve milk without involving arrangements under which the producers' milk would need to be diverted from the bottling plants in order to maintain pool status.

A cooperative should be permitted at any time to request nonpool status for a plant that would qualify for pooling as a balancing plant unless such plant during the same month would qualify for pooling on the basis of its performance as a distributing plant or a supply plant. However, if the cooperative elects nonpool status for a balancing plant, such plant could not be reinstated for pooling as a balancing plant in the next 12 months. If a balancing plant were allowed to move from pool to nonpool status and back in shorter periods, it could not be considered as a plant on which the market could depend to perform the function of a balancing plant.

A balancing plant should not be eligible to qualify as a pool plant under this order if it qualified in the same month as a pool plant under another order and the volume of fluid milk products (except filled milk) disposed of from such plant in the other order's marketing area as route disposition and to fully regulated distributing plants under that order was greater than the volume of route disposition in this marketing area and transfers to pool distributing plants under this order during the same month from that plant. Such a provision will preclude the pooling in the Eastern Ohio-Western Pennsylvania order a plant with primary association in another order market.

(b) *Pooling a supply plant in March–August based on its supplying the market in the preceding September–February period.* The requirements for pooling a supply plant in March through August based on its supplying the market in the preceding September through February should be modified.

To qualify for pooling in any individual month a supply plant must move to pool distributing plants, by transfer or diversion, not less than 50 percent during the months of September, October, and November (40 percent in other months) of the milk received from dairy farmers (excluding that diverted from other plants) at such plant during the month. It may count also toward such percentage its route disposition in the marketing area. A supply plant thus qualified for each month of September through February is accorded "automatic" pool plant status for the following March through August, i.e., without being required to ship.

The provision to count route disposition in the marketing area the same as a shipment to a pool distributing plant in determining qualification to pool was instituted in the order effective October 1, 1970. At the present hearing it was proposed that the order be clarified as to whether such disposition is to be counted in determining whether a supply plant qualifies for automatic pooling in the March–August period.

Qualifying a supply plant for pooling in March through August only on the basis of its transfers and diversions to pool distributing plants in the preceding September–February period recognizes the supply plant function of such a plant. When the automatic pooling provision was instituted in the order, it contemplated that a supply plant would qualify for automatic pooling in March–August solely on the basis of transfers and divisions to pool distributing plants in the preceding September through February. It was not contemplated at that time, or has it ever been proposed, that its route disposition would be credited as performance toward its automatic pool status as a supply plant.

Accordingly, it is concluded that the order should be clarified by providing for automatic pooling in the March–August period for a supply plant only on the basis of its actual shipments and diversions to pool distributing plants in the preceding months of September through February.

(c) *Specifying plant at which diverted milk shall be pooled.* The order should be clarified to specify that all milk diverted from a pool distributing plant to other plants (except another pool distributing plant) shall be considered as having been received at the distributing plant in determining its qualification to pool.

To qualify as a pool plant for each month, a distributing plant must have route disposition of 50 percent (40 percent in April–August) of its receipts of fluid milk products. In addition, its route disposition in the marketing area during the month must be at least 15 percent of such receipts.

For determining its pooling qualification, a plant's receipts now include fluid milk products (except filled milk) physically received at such plant or diverted as producer milk to a nonpool plant. As proposed at the hearing, milk diverted from a distributing plant to a pool supply plant also would be considered as a receipt at the distributing plant in determining its pooling qualification.

Prior to October 1970 such diversions were considered as a receipt at the pool supply plant to which diverted. The order was amended effective October 1, 1970, however, to exclude milk diverted to a pool supply plant as a receipt at such plant in determining its pooling qualifications. That change necessarily means that such diverted milk be considered a receipt at the plant with which it is primarily associated, the distributing plant from which diverted. The amendment adopted by this decision provides the appropriate language to accomplish this.

2. *Diversion of producer milk.* Milk diverted from a pool plant to another pool plant or to a nonpool plant should be priced at the location of the plant to which diverted.

Diversions to nonpool plants are now priced at the location of the pool plant from which diverted. Likewise, milk of a producer diverted from the pool plant at which his milk is customarily received to another pool plant is now priced at the location of the plant from which diverted, to the extent that his number of days' production involved in the diversion does not exceed his number of days of production physically received at the plant from which diverted. Diversions to pool plants in excess of such limit are priced at the location of the plant to which diverted.

Changes in the diversion provisions were considered at the hearing as well as proposals to revise location adjustments.

As provided by this decision, the location adjustments are changed to recognize the greater value of producer milk f.o.b. plants in or near the principal population centers in the marketing area, as compared to its value at other locations. In view of this, it would be inconsistent to continue to price milk as if delivered to a plant in or near the principal population centers in the market when actually delivered as diverted milk to a plant at a location at which a different price is appropriate based on the location adjustment provisions adopted in this decision.

The purpose of the diversion provisions is to facilitate marketing the reserve milk that is a necessary part of the market's supply. Because of variations in market needs and in production, the milk of each producer is not needed every day for processing as fluid milk at the plant to which it is customarily delivered. It is necessary, however, that there be a reserve of qualified milk available for the fluctuating needs of handlers serving the market. At times, therefore, when milk of a dairy farmer regularly supplying the market is not needed at the plant to which it is usually shipped, it can be handled most economically by moving it directly as diverted milk from the farm to another pool plant where it is needed for Class I purposes or (when it is not needed for Class I purposes) to a nearby manufacturing plant, whether it be a pool plant or a nonpool plant.

The location adjustments adopted by this decision appropriately reflect the relative values for producer milk received at pool plants according to their respective locations. When producer milk is received as diverted milk at a nonpool plant, its location value is similar to that of milk delivered by producers to a pool plant at the same distance from the market.

3. *Location adjustments.* Location adjustments (the amounts by which the Class I price and the uniform price are adjusted for milk received at plants variously located) should be based on a plant's location relative to the major consumption centers in the market.

For the purpose of applying location adjustments, the marketing area should be divided into three zones designated as follows:

Zone 1 would include the Ohio counties of Ashtabula, Carroll, Geauga, Guernsey (limited to the townships of Londonderry, Millwood, and Oxford), Harrison, Holmes, Monroe, Portage, Tuscarawas, Wayne, Ashland (except the townships of Ruggles, Sullivan, and Troy) and Trumbull (limited to the townships of Bazetta, Bloomfield, Bristol, Champion, Farmington, Fowler, Greene, Gustavus, Hartford, Johnston, Kinsman, Mecca, Mesopatamia, Southington, and Vernon); and the Pennsylvania counties of Clarion (limited to the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby), Crawford, Erie, and Venango.

Zone 2 would include the Ohio counties of Belmont, Columbiana, Jefferson, Mahoning, Stark, Summit, Lorain (limited to the townships of Amherst, Avon, Avon Lake, Black River, Carlisle, Columbia, Eaton, Elyria, Grafton, Ridgeville and Sheffield), Medina (except the townships of Chatham, Homer, Litchfield, and Spencer), Trumbull (limited to the townships of Braceville, Brookfield, Howland, Hubbard, Liberty, Lordstown, Newton, Warren, Weathersfield, and Vienna); the Pennsylvania counties of Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Mercer, Washington, and Westmoreland (except the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward and the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair); and the West Virginia counties of Barbour, Brooke, Doddridge, Hancock, Harrison, Lewis, Marion, Marshall, Monongalia, Ohio, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, and Wetzel.

Zone 3 would include Cuyahoga and Lake Counties, Ohio, and Allegheny County, Pa.

No location adjustment should apply at plants in Zone 1. At plants in Zone 2 the location adjustment should be plus 5 cents, and at plants in Zone 3, plus 10 cents.

For a plant outside the marketing area, the Class I and uniform prices should be those applicable nearest to the plant of six cities (Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va.) that are now used as basing points for determining location adjustments, adjusted by a reduction of 1.5 cents for each 10 miles or fraction thereof that the plant is located from the city hall of such nearest city.

The order now provides for two zones for pricing milk at plants in the marketing area. At plants in the presently designated Pittsburgh district (that portion of the marketing area that is either in West Virginia or within 80 miles of the Pittsburgh city hall), the applicable Class I and uniform prices are 10 cents more than at plants in the remainder of the marketing area, which is currently designated as the Cleveland-Erie district. At plants outside the marketing area, the location adjustment rates are essentially the same as those adopted in this decision, except that they are applicable only at plants more than 85 miles from the six specified basing points.

The principal cooperative in the market proposed that the marketing area be divided into three zones for the purpose of applying location adjustments. As proposed by the cooperative, Zone 3 would include only Allegheny County, Pa. Zone 2 would include the Pennsylvania counties of Armstrong, Beaver, Butler, Fayette, Greene, Washington, and Westmoreland; the Ohio counties of Belmont, Guyahoga, Guernsey, Harrison, Jefferson, Lake, and Monroe; and the 17 West Virginia counties in the marketing area. Zone 1 would include the remaining territory in the marketing area.

As proposed by the cooperative, no location adjustment would be applicable at plants in Zone 1. At Zone 2 plants, the location adjustment would be plus 8 cents and at Zone 3 plants, plus 13 cents. At a plant outside the marketing area, the Class I and uniform prices would be those applicable at the nearest of the six designated cities for measuring location adjustments, less 3 cents, and less an additional 1.5 cents for each 10 miles or fraction thereof that such plant is located from the nearest of the six cities.

The proponent cooperative emphasized that the purpose of its location adjustment proposal is to make it economically feasible for producers to ship directly from their farms to bottling plants in the principal population centers in the marketing area, instead of to places nearer their farms where they would incur less hauling expense. The cooperative's spokesman stated that its proposal contemplated no increase in the total value of Class I milk in the pool. That is, the total cost to handlers for Class I milk purchased from producers, as proposed, would approximate the present aggregate value of producer milk in Class I.

The operator of a pool plant in Youngstown, Ohio, supported the cooperative proposal. It would include such plant in Zone 1, at which no location adjustment would apply. Such plant is now in the Pittsburgh district and is subject to a plus 10 cent location adjustment.

A pool plant operator in Clarksburg, W. Va., proposed that no location adjustment apply at plants in the West Virginia portion of the marketing area. He contended that West Virginia handlers should not continue to be subject to the same location pricing as Pittsburgh handlers, particularly since none of the West Virginia handlers sell in Pennsylvania.

Five handlers whose pool plants and principal sales areas are within that contiguous territory made up of the northernmost West Virginia counties in the marketing area and the nearby Ohio counties of Belmont, Jefferson, Harrison, Monroe, and Guernsey, proposed that no location adjustments apply at plants in these counties. They contend that they should not be subject to the Pittsburgh district location pricing (as they now are) because their competition for sales is predominately with milk from regulated plants at locations at which the present an proposed applicable Class I prices are lower.

Handlers operating plants in Allegheny County, Pa., objected to any change in the present location pricing. The principal basis for their objection to the location pricing proposed by the cooperative is that the Class I price for plants in Allegheny County would be increased 4 cents while the Class I price for plant operators in surrounding counties, with whom they have substantial competition, would be decreased 1 cent.

The spokesmen for 15 handlers in the northern Ohio portion of the marketing area, principally Cuyahoga County, likewise opposed any change in location pricing. The location adjustment proposed by the cooperative would increase their Class I price 8 cents. This, they claim,

would place them at a disadvantage in competing for sales in the Cleveland area with milk distributed from plants located elsewhere at which no location adjustment would apply.

A relatively small cooperative in northern Ohio also opposed any change from the present location pricing. The pool plant to which its producer membership is not now subject to any location adjustment. Neither would it be subject to a location adjustment under the hearing notice proposal. The cooperative opposed the proposed location pricing, contending that it would result in its members subsidizing the higher blend prices to be paid to producers delivering to plants at which plus location adjustments would apply.

In this market the current problem of location pricing is essentially one of insuring adequate supplies at the main, but widely separated, population centers of the market, where a high proportion of the market supply is processed for distribution as fluid milk products.

Fluid milk products are bulky and perishable, and incur a relatively high transportation cost when they are moved a considerable distance. The location adjustment provisions assist in facilitating, under the minimum price provisions, the movement of milk from supply plants to the points where processed for Class I uses. Since minus location adjustments apply only at outlying plant locations, no minus location adjustment applies when milk is received directly from the farm at a plant in the marketing area. The transportation or hauling cost on such milk is paid for by the individual producer and the hauling rate is not fixed by the order. Location price adjustments reflect, however, the lesser value of milk when received at an outlying plant location, or when diverted to an outlying location.

When milk is received at a supply plant located a considerable distance from the market, the handler, rather than the producer, incurs the cost of moving that milk from the outlying plant to the market center for processing. Under these conditions, the value of producer milk delivered to a supply plant located some distance from the central market reduces in proportion to the distance and the cost of transporting such milk from the plant of first receipt to the distributing plant. If a distributing plant is located at a considerable distance from any of the main centers of population in the marketing area, the price at such plant will reflect a value relative to the market center, equivalent to that of milk received at a supply plant similarly located.

A primary consideration in establishing location adjustments is to identify the major consumption centers in the marketing area. Of the 8.5 million population (1970 census) in the Eastern Ohio-Western Pennsylvania marketing area, 2.4 million reside in the several counties making up the Pittsburgh Standard Metropolitan Statistical Area[1] (SMSA), and 2.1 million in the Cleveland SMSA.

The principal concentration of population in the Pittsburgh SMSA is in Allegheny County. The population of the Cleveland SMSA is primarily that of Cuyahoga and Lake Counties.

The 17 pool distributing plants in Allegheny County and the 16 in Cuyahoga and Lake Counties process a high portion of the total Class I milk priced under the order. They are not only the major distributors in these counties but also have substantial distribution in other parts of the marketing area. Producer supplies of milk are moved to plants in these major population centers in the market from various locations throughout the marketing area and beyond.

Greater monetary incentive is needed if producers, responding to the minimum prices established by the order, are to deliver adequate quantities of milk to plants in these population centers when alternative plant outlets nearer their farms are available. A producer whose farm is nearer to a secondary population center in the marketing area than to Pittsburgh or Cleveland frequently can achieve a better net return, after paying hauling cost, by shipping to the secondary market. This has been particularly true with the price realized for milk delivered to Cleveland being the same as that for milk delivered to any other point in the marketing area, except the Pittsburgh district where a 10-cent higher price has applied.

Also, all diverted milk is now priced at the plant from which diverted. This enables producers to receive a price f.o.b. the marketing area location even though their milk actually is diverted to, and physically received at, a plant at a distance from the marketing area. Provision for pricing diverted milk at the location of the plant to which diverted is made elsewhere in this decision.

In providing milk for Metropolitan Cleveland plants, the cooperative that is the major supplier of Cleveland handlers currently finds it necessary to subsidize the hauling of producer milk to such plants to substantial degree to insure such plants adequate supplies for their Class I milk needs.

Although producers proposed an increased location adjustment for Pittsburgh area plants, it was not shown that the present plus 10-cent adjustment for the Pittsburgh area (Allegheny County) is not inducing delivery of adequate supplies of milk for plants in that area. Moreover, the smaller location adjustment to be applicable in the counties adjacent to and nearby Pittsburgh, as provided in this decision, will make shipping to Pittsburgh area handlers relatively more attractive than at present. Heretofore, producers receive the same plus location adjustment for milk delivered to plants in these counties as when shipped to Pittsburgh.

At present, a number of relatively large plants in the counties adjacent to and near Cuyahoga County are more attractive outlets for the milk of producers than plants in Cleveland (in Cuyahoga County). Since Cleveland is located on Lake Erie, the supply of producer milk for these plants must move from the south past the plants of other regulated handlers to Cleveland area plants. The plus 10-cent adjustment adopted in this decision will provide needed incentive for producers to supply the Class I milk needs of the Cleveland plants.

The plus 5-cent location adjustment for Zone 2 adopted by this decision would be applicable in the secondary population centers in the market and in those counties adjacent to and in the vicinity of Allegheny and Cuyahoga and Lake Counties. The regulated plants in these primarily urban counties are geographically somewhat nearer the farm production area than are the plants in Cleveland and Pittsburgh. The cost of transporting farm supplies of milk to these secondary population centers is less than for transporting it the greater distances to Cleveland or Pittsburgh. Providing for a 5-cent lesser location adjustment at these Zone 2 plants than at Zone 3 plants gives appropriate recognition to this cost difference.

Seventeen West Virginia counties, currently in the Pittsburgh district, are included in Zone 2, as defined herein. Also, the plants in the Pennsylvania counties of Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Mercer, Washington, and Westmoreland, likewise in the Pittsburgh district, are moved to Zone 2. Handlers in these areas do not experience the same difficulty in obtaining supplies as do Pittsburgh handlers. This is because the plants in these areas are nearer to the principal production area than are Pittsburgh plants.

There is a substantial overlapping of the sales areas of West Virginia regulated handlers in the West Virginia portion of the marketing area. In addition, these handlers compete for sales in the West Virginia portion of the marketing area with fluid milk products emanating from plants in Ohio and Pennsylvania regulated by this order and from plants regulated by the Ohio Valley order.

The Ohio and Pennsylvania pool plants with distribution in West Virginia are included in Zone 2 in this decision, the same as West Virginia plants. Presently some of these plants are not subject to the 10-cent higher Pittsburgh district Class I price as are the West Virginia plants. Also, the $1.85 Class I price differential provided by this decision in conjunction with the 5-cent lower location adjustment will result in a $1.90 Class I differential applicable at West Virginia plants compared to $1.97 at present.

The revised location pricing adopted in this decision will place West Virginia handlers in a more equitable competitive position with milk distributed in West Virginia from plants in other States that are regulated by this order and the Ohio Valley order.

The Ohio counties of Belmont, Columbiana, Jefferson, Mahoning, Stark, and Summit, those portions of Lorain and

[1] As defined by the Bureau of the Census of the U.S. Department of Commerce.

Medina Counties that are in the marketing area, and the 10 southernmost townships of Trumbull County should also be in Zone 2. The southern portion of Trumbull County, which is mostly urban, contains a substantial portion of the Youngstown-Warren Metropolitan area. The population of the 10 southern townships is about 190,000 compared to about 43,000 in the 15 northern townships of such county. Milk at plants in these areas are now subject to Pittsburgh district pricing. The other Ohio counties to be included in Zone 2, Stark, Summit, Lorain, and Medina, are now in the Cleveland-Erie district. A plus location adjustment of 5 cents in these counties should provide sufficient incentive to attract adequate supplies of milk to the city plants in these counties. In addition, a 5-cent difference in price between plants in Cuyahoga and Lake Counties and these nearby counties should be adequate to move sufficient milk from the production area the additional distance to Cleveland area plants.

The territory in the marketing area that is not included in either Zone 3 or Zone 2, as adopted in this decision, should be included in Zone 1. There has been no problem of inducing adequate supplies of milk for plants in this area at the order prices. None of the proposals at the hearing suggested a location adjustment for plants in Zone 1.

As earlier stated, the location adjustment for a plant outside the marketing area should be based on its distance from the nearest of the following city halls: Canton and Cleveland, in Ohio; Erie, Pittsburgh, and Uniontown, in Pennsylvania; and Clarksburg, in West Virginia. There were no proposals at the hearing to change these basing points for determining location adjustments for out-of-area plants. For example, if the nearest basing point to such plant outside the marketing area were Pittsburgh (in Zone 3), the location adjustment for the plant would be computed on the Class I and uniform prices applicable in Zone 3. This method is essentially the same as now provided in the order.

As proposed by producers, and adopted in this decision, minus location adjustments would apply at all plants outside the marketing area at the rate of 1.5 cents for each 10 miles or fraction thereof that a plant is from the nearest of the six designated basing points. The order now applies location adjustments only at a plant more than 85 miles from its basing point. There was no support at the hearing for continuing to exempt all plants within 85 miles of the basing points from the location adjustment provisions.

The hearing proposal of the cooperative provided that in addition to a minus location adjustment of 1.5 cents for each 10 miles, the applicable location adjustment be further reduced by 3 cents. This amount is not now included in computing the minus location adjustments under the order.

The cooperative stated that a 3-cent reduction in the location adjustment at all supply plants outside the marketing area is desirable to "overcome the inertia" to move milk to the market. It was not demonstrated, however, that the rate of 1.5 cent for each 10 miles now included in the order, and continued by this decision, is inappropriate. This rate is representative of the cost of transporting milk. It is the same rate that is commonly accepted and used in Federal orders for similar purpose.

Since this decision provides for minus location adjustments at all supply plants outside the marketing area instead of only at those more than 85 miles from designated basing points, the Class I and uniform prices at the three supply plants now under the order, all of which are within 85 miles of a designated basing point, would be reduced 4.5, 7.5, and 13.5 cents, respectively. These adjustments are based on the location of these plants from establishing basing points in the marketing area at the rate of 1.5 cents for each 10 miles.

4. *Butterfat differential.* A single butterfat differential, 11.5 percent of the Chicago butter price for the current month, should be used to adjust the class prices and the uniform price.

Presently, the order provides for three different butterfat differentials. That for Class I is 12 percent of the Chicago butter price for the preceding month; for Class II and Class III, it is 11.5 percent of the Chicago butter price for the current month. The butterfat differential used in adjusting the uniform price is the average of the butterfat differentials for the three classes, weighted by the proportion of producer milk in each class.

The principal cooperative in the market proposed that the Class I butterfat differential be reduced from 12 percent of the butter price for the preceding month to 11.5 percent of the butter price for the current month. This proposal was supported at the hearing by other producer associations, which, together with proponent, represent a substantial majority of the 9,500 producers on the market. In proposing a lower Class I butterfat differential, producers contended that the values now assigned to butterfat and skim milk in Class I products do not reflect the current market values of these components of milk.

One producer group opposed a reduction in the Class I butterfat differential. This cooperative contended that its members would receive less money for butterfat in milk in excess of 3.5 percent butterfat. The average butterfat test of the production of this cooperative's members, 3.85 percent, is above the market average.

Handlers spoke strongly against reducing the Class I butterfat differential. Handler witnesses emphasized that reducing the Class I butterfat differential without making any change in the Class I price would cause an unwarranted increase in their cost of Class I milk. Handlers took the position that if the Class I butterfat differential were reduced, an adjustment should be made in the Class I price differential in order that their cost of Class I milk would not be changed.

Indicative of the declining proportion of butterfat in Class I sales is the continuous decline in the average test of fluid milk products sold in the Federal order marketing areas. In 1966 the average butterfat test in 66 Federal order markets for such sales was 3.53 percent.[2] This percentage declined from year to year, and in 1971 the comparable average butterfat test was 3.21 percent. On a percentage basis, the average butterfat content in these fluid milk products declined 9 percent from 1966 to 1971. It can reasonably be expected that the decline at a comparable rate will continue in the several years immediately ahead.

Under the Eastern Ohio-Western Pennsylvania order the average butterfat tests of Class I sales has been declining at a rate similar to that experienced nationally. Most recently, from 1970 to 1971, the average test of producer milk classified in Class I dropped from 3.28 to 3.15 percent, a decline of 4 percent. The increasing demand for Class I products of lower butterfat content can expect to result in a continuing decline in the average butterfat test of Class I sales under the order. Adopting the same butterfat differential for Class I milk as for other classes, as provided in this decision, gives recognition to a lower market value of butterfat in the fluid milk products in Class I.

During 1971 the proposed differential (11.5 percent of the Chicago butter price) averaged 7.8 cents. The actual average Class I butterfat differential for the same period was 8.2 cents. During 1971, when the Class I price averaged $6.67 (in the Cleveland-Erie district), the value of 3.5 pounds of butterfat in 100 pounds of milk was $2.87 (35 times 8.2 cents). The skim milk portion of such 100 pounds was valued at $3.80.

The proposed butterfat differential of 11.5 percent of the butter price would have valued the butterfat in 100 pounds of milk during 1971 at $2.73 (35 times 7.8 cents). This is 14 cents less than the value of 3.5 pounds of butterfat in 100 pounds of milk under the Eastern Ohio-Western Pennsylvania order in the same period. Had such a differential been in effect, the value of the skim milk portion of Class I milk would have been increased by 14 cents.

While the butterfat content in producer milk is relatively close to the average butterfat content of whole milk sold as class I, it is now running substantially above the average test of all Class I milk. This is because fluid skim milk and lowfat milk items have become an increasing proportion of Class I sales at the expense of whole milk.

During 1971, when the butterfat in producer milk classified in Class I averaged 3.15 percent, producer deliveries averaged 3.72 percent butterfat.

The order price for Class I milk of 3.15 percent butterfat sold by handlers during

[2] The January 1972 Summary of Federal Milk Order Statistics (issued by the Dairy Division, AMS of USDA), page 4.

1971 averaged $6.383. This is computed by subtracting 28.7 cents (3.5 points of butterfat at 8.2 cents per point) from the average $6.67 Class I price for 3.5 percent milk. At the lower butterfat differential adopted in this decision, the adjustment in butterfat for such period would have been 27.3 cents (3.5 points of butterfat at 7.8 cents per point). This would have resulted in an average price of $6.397 for producer milk sold in Class I, 1.4 cents more than the actual Class I price ($6.383) for producer milk of 3.15 percent butterfat sold in Class I in 1971.

As indicated above, only the Class I butterfat differential is based on the butter price for the preceding month. That quotation no longer would be used for pricing under the order in the current month. The differential adopted in this decision would be based on the butter price for the current month, which butter price is now used for computing the Class II and Class III prices.

Because there is little change from month to month in the Chicago butter price, it is unnecessary to provide for average monthly butter quotations for both the current month and the preceding month for computing butterfat differentials applicable in the same month. Providing for the use of 1 average monthly butterfat quotation, that for the current month, as proposed at the hearing and here adopted, will simplify application of the order's provisions.

Since a single butterfat differential will apply to all classes of milk, such differential will determine the value of all butterfat in producer milk. If the differential is the same for each class, as proposed herein, the provisions for weighting the values of butterfat by classes become unnecessary and the same butterfat differential will be used for adjusting the producer's uniform price.

5. *Class I price.* The Class I price should be the basic formula price for the second preceding month plus $1.85 in Zone 1.

The Class I differential is now $1.87 for plants in the Cleveland-Erie district, and $1.97 in the Pittsburgh district.

Producers proposed a single Class I differential of $1.88 in conjunction with their proposal to revise the location pricing schedule under the order. Proponents stated their intention that the proposed change should return to producers the same total dollar value for Class I milk as they now receive under the order.

Adopting a Class I differential of $1.85 in conjunction with the other changes applicable to Class I milk adopted in this decision (e.g., location pricing, butterfat differential) will return to producers approximately the same aggregate amount for Class I milk that they are presently receiving. The Class I differential herein adopted is reasonable under current conditions affecting the supply and demand for milk in the market.

6. *Classification provisions.* (a) *Direct allocation of nonfluid other source milk to Class II utilization.* The order should permit the direct allocation to Class II of other source milk received in a form other than fluid milk products or fluid cream products (such as nonfat dry milk and condensed milk or skim milk) and used to produce Class II products.

Several handlers proposed a direct allocation to Class II utilization for other source milk, except that received in the form of a fluid milk product. The basis for their proposal was that there is no need to protect the local dairy farmers against the use of nonfat dry milk solids and condensed milk or skim milk in Class II products because such products involve greater cost than producer milk. They indicated that handlers rely principally on producers for a supply of milk for Class II uses, and use alternative sources only when producer milk is not available or the Class II product is modified by the addition of nonfat dry milk solids.

The major use of other source milk in Class II products is the addition of nonfat dry milk to cream products and to skim milk being used for the manufacture of cottage cheese. When supplies of producer milk are short, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or condensed skim milk may be similarly used.

Nonfat dry milk has certain processing advantages for handlers. It can be added readily to milk or milk products to increase their nonfat milk solids content. Also, its storability enables handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, any higher cost of nonfat dry milk to the handler relative to producer milk would tend to limit its use only to those situations where the nonfat dry milk provides a distinct processing advantage.

(b) *Assignment of utilization to milk transferred to a nonpool plant.* The transfer provisions of the order should be revised so that any assignment of Class I milk at a nonpool plant to dairy farmers who the market administrator determines constitute the regular sources of supply for such nonpool plant is limited to those farmers whose milk is of bottling grade quality.

If a nonpool plant receives milk from a pool plant, the market administrator must determine the classification to be assigned the receipt of pool plant milk. This necessitates assignment of Class I utilization at the nonpool plant to its various receipts.

The order provides priorities in Class I milk assignments to the milk of dairy farmers who constitute such nonpool plant's regular sources of supply. The order does not, however, differentiate between the milk of bottling grade quality received from some dairy farmers and the manufacturing grade milk received from others at the nonpool plant. Consequently, the manufacturing grade milk may now be assigned Class I utilization before any such assignment is made to fluid milk products received from pool plants.

The manufacturing grade milk received from dairy farmers is not involved in a nonpool plant's Class I operation. Accordingly, it should not be assigned to any of the plant's Class I utilization in the process of determining the classification of pool plant milk at such nonpool plant.

(c) *Allowable Class III shrinkage on bulk cream transfers.* There should be no division of shrinkage between the transferring handler and the receiving handler on transfers of bulk cream between plants. The handler first receiving the milk should receive the full amount of allowable shrinkage associated with the processing of such milk into bulk cream. As the result of a suspension order currently in effect, the regulation so provides at the present time.

A cooperative proposed that the division of shrinkage be eliminated in order that the plant processing the bulk cream will not be disadvantaged in processing. The cooperative handles a substantial portion of the market's reserve supplies. It receives producer milk at farm weights and tests, separates such milk at its plant, and transfers large quantities of cream to other plants. The association indicated that it is experiencing losses greatly in excess of the 0.5 percent permitted a receiving operation, and that a large amount of its loss is occurring in the process of separating milk for cream.

When bulk cream is transferred between plants, it is not necessary that the receiving handler be allotted any Class III shrinkage on such transfer. Such bulk cream usually would be used in a manufactured product and be fully accounted for on a "used to produce" basis. Since the handler would report that his total receipts of bulk cream were used to produce specified Class II or Class III products, there is no remainder of the cream to be considered as unaccounted for, or shrinkage.

(d) *Limiting Class III shrinkage on transfers to other plants.* The shrinkage allowable in Class III on a pool plant's transfers to other plants should be limited to a quantity that is not more than the Class III shrinkage computed on the basis of the pool plant's total receipts.

The allowable Class III shrinkage at a plant is computed on the basis of its receipts of producer milk, milk diverted to other plants and fluid milk products received from other plants. Up to 2 percent of producer milk may be eligible for Class III shrinkage; on milk diverted from the plant, the Class III shrinkage allowance is 0.5 percent; and on bulk fluid milk products received from other plants, the allowable Class III shrinkage is 1.5 percent, except that no shrinkage is allowed on such transfers if a Class II or Class III use is requested. The order also provides for deducting from a plant's allowable Class III shrinkage 1.5 percent of the bulk fluid milk products transferred to other plants. Thus, a "negative" shrinkage allowance results when 1.5 percent of the bulk fluid milk products transferred from a plant exceeds the allowable Class III shrinkage that was computed on the basis of the plant's receipts of producer milk, its milk diverted to other plants and bulk fluid

milk products received from other plants.

If, for example, a plant has receipts of 1 million pounds of producer milk, and it is buying such milk on the basis of farm weights, it is permitted actual shrinkage up to 2 percent in Class III, e.g., 20,000 pounds. If the plant has additional receipts of other source milk for which Class III utilization is requested, it receives no allowable shrinkage thereon. In the event the plant transferred 1.5 million pounds of milk to other plants, the transferor-handler must deduct 1.5 percent of such transfer, or 22,500 pounds, from the pool plant's allowable Class III shrinkage of 20,000 pounds. In such instance the transferor-pool plant would have a negative allowable shrinkage of 2,500 pounds.

The order amendments provided herein would limit the allowable shrinkage in the example cited above to zero.

(e) *Shrinkage assigned to other source milk.* The method of prorating shrinkage to producer milk and other source milk should be clarified by providing that the proration to other source milk will be limited to that in the form of bulk fluid milk products.

The order now provides for a proration of plant shrinkage to (1) the quantity of producer milk, and other source milk in bulk form for which Class II or III utilization is not requested, and (2) the quantity of remaining other source milk.

A cooperative proposed that the second category to which shrinkage is prorated be limited to that in the form of bulk fluid milk. Proponent stated that little, if any, shrinkage occurs whenever nonfat dry milk solids are used in reconstituting or fortifying a fluid milk product. The cooperative also indicated that other source milk received in the from of packaged fluid milk products should not receive any shrinkage at the plant of receipt because the principal shrinkage on such milk would have occurred at the plant where such milk was processed and packaged.

Handlers stated, contrarily, that the losses in a processing operation involving the use of nonfluid other source milk are not significantly different than the losses occurring in an operation using other source milk in fluid form.

Nonfat dry milk solids, condensed milk, and condensed skim milk are used primarily for Class III purposes. These products are also widely used to fortify fluid milk products disposed of as Class I, but the quantities so used are relatively small compared to the quantities used for other purposes. When nonfat dry milk solids or condensed milk products are used in the manufacture of a Class II or Class III milk product, the proration of shrinkage to the quantity so used is not on the basis of the actual weight of such products but on the basis of the skim milk equivalent (nonfat milk solids contained in such product plus all of the water originally associated with such solids). Accordingly, the proration of shrinkage should be limited to other source milk in the form of bulk fluid milk products in order that a disproportionate amount of shrinkage is not allocated to the manufacturing segment of a plant's operation.

7. *Miscellaneous and conforming changes*—(a) *Receipts of fluid milk products priced by an order at a pool plant from an unregulated supply plant.* No pool charge should be made on fluid milk products received at a pool plant or a partially regulated distributing plant from an unregulated supply plant when it is determined that such fluid milk products have been priced as Class I under this or any other Federal order. When an unregulated supply plant makes Class I purchases from a regulated plant under any order, the obligation to the order pool at the Class I price has been met, and there is no justification for any additional charge. On any unpriced milk received from an unregulated supply plant and allocated to Class I at a pool plant, the eastern Ohio-western Pennsylvania order will continue to provide for payment to the producer settlement fund at the difference between the Class I and uniform prices.

(b) *Definition of fluid cream product.* A definition of "fluid cream product" should be added to the order to mean cream (including aerated cream and sterilized cream) or a mixture of cream and milk or skim milk containing 10.5 percent or more butterfat. These products, when disposed of by a handler for fluid consumption, are classified in Class II.

Reference is frequently made throughout the order to the various products herein proposed to be included in the fluid cream product definition. Incorporating a definition in the order will facilitate such reference to the many order provisions concerned with these products that are herein designated as fluid cream products.

(c) *Equivalent price.* The order language providing for the "use of equivalent prices" should be modified.

The order now provides that if for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price that is required. At the hearing, it was proposed that this provision be made more definitive so as to encompass items other than price quotations that might be required for computing class prices when such prices are not available in the manner described.

Although the various quotations now used in the order are specified price quotations, a different price constituent (e.g., a price index) that is reflective of one or more price quotations might under some circumstances be instituted in the order as a basis for determining class prices. Replacing "price quotation" with "price or pricing constituent" in the order language relating to the use of equivalent prices will more appropriately express the intent of this provision of the order, and is therefore adopted in this decision.

(d) *Repositioning of location adjustment applicable to other source milk.* The provisions which provide that the Class I and weighted average price for other source milk, when adjusted for location of the shipping plant, shall not be less than the Class III price, should be repositioned in the order.

A pool plant operator's obligation to the producer settlement fund includes a payment on fluid milk products received from unregulated supply plants and allocated to Class I. The handler's obligation to the pool is determined by charging him at the Class I price and crediting him at the weighted average price. The Class I price and the weighted average price used in such computation are those applicable at the unregulated supply plant, except that each is limited so as not to be less than the Class III price.

Presently such limits to the Class I price appear in the section dealing with computation of the net pool obligation of each handler. The phrase "but not to be less than the Class III price" should be deleted from such paragraph and placed within a new paragraph to be added to the section on location adjustments to handlers.

The limit to the weighted average price at which the pool handler is credited appears in the section specifying payments to the producer settlement fund. The parenthetical phrase "not to be less than the value at the Class III price" should be deleted from such paragraph and the location differentials on nonpool milk should be revised to include such limits.

These changes, as proposed herein, remove from certain sections of the order limits to the amount by which location adjustments might decrease the Class I or weighted average price and places such limits within sections of the order dealing with appropriate location adjustments.

(e) *Accounting for packaged fluid cream products received from other plants.* The order should specify that handlers report their receipts of packaged fluid cream products from other plants. Handlers are not now required to report such receipts. The order does require, however, that handlers report their month-end inventories of packaged fluid cream products, irrespective of their source.

It was proposed that packaged fluid cream products received at a pool plant and then disposed of from the plant without further processing be treated as "pass-through" products. Under this treatment, such "pass-through" products would not be considered other source milk and would not be subject to the allocation and pricing provisions of the order.

Although no handler obligation would result under the provisions herein proposed (requiring handlers to report their receipts of packaged fluid cream products from other plants) their adoption will be helpful in establishing a more complete accounting of all processing operations within the plant that involve the use of fluid cream products. To facilitate the accounting for all fluid cream products handled at a plant, the other source

milk definition should include all fluid cream products, whether in bulk or packaged form. This will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of fluid cream products that are processed in the handler's plant and those received at the plant in packaged form from other plants.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1036.6 is revised as follows:

§ 1036.6 Eastern Ohio-Western Pennsylvania marketing area.

The "Eastern Ohio-Western Pennsylvania marketing area," hereinafter called the "marketing area," means all the territory within the boundaries of the following geographical units, including all waterfront facilities connected therewith and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within the listed geographical units:

(a) "Zone 1" includes:

(1) In Ohio:

(i) The following counties in their entirety:

Ashtabula	Monroe
Carroll	Portage
Geauga	Tuscarawas
Harrison	Wayne
Holmes	

(ii) Ashland County (except the townships of Ruggles, Sullivan, and Troy).

(iii) In Guernsey County: the townships of Londonderry, Millwood, and Oxford.

(iv) In Trumbull County: the townships of Bazetta, Bloomfield, Bristol, Champion, Farmington, Fowler, Greene, Gustavus, Hartford, Johnston, Kinsman, Mecca, Mesopatamia, Southington, and Vernon.

(2) In Pennsylvania:

(i) The following counties in their entirety:

Crawford	Venango
Erie	

(ii) In Clarion County: the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby.

(b) "Zone 2" includes:

(1) In Ohio:

(i) The following counties in their entirety:

Belmont	Mahoning
Columbiana	Stark
Jefferson	Summit

(ii) In Lorain County: the townships of Amherst, Avon, Avon Lake, Black River, Carlisle, Columbia, Eaton, Elyria, Grafton, Ridgeville, and Sheffield.

(iii) Medina County (except the townships of Chatham, Homer, Litchfield, and Spencer).

(iv) In Trumbull County: the townships of Braceville, Brookfield, Howland, Hubbard, Liberty, Lordstown, Newton, Warren, Weathersfield, and Vienna.

(2) In Pennsylvania:

(i) The following counties in their entirety:

Armstrong	Greene
Beaver	Lawrence
Butler	Mercer
Fayette	Washington

(ii) Westmoreland County (except the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward and the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair).

(3) In West Virginia, the following counties in their entirety:

Barbour	Ohio
Brooke	Preston
Doddridge	Randolph
Hancock	Taylor
Harrison	Tucker
Lewis	Tyler
Marion	Upshur
Marshall	Wetzel
Monongalia	

(c) "Zone 3" includes Cuyahoga and Lake counties, Ohio, and Allegheny County, Pennsylvania, in their entirety.

2. Section 1036.11 is revised as follows:

§ 1036.11 Pool plant.

"Pool plant" means a plant specified in paragraph (a), (b), (c), or (d) of this section that is not an other order plant or a producer-handler plant.

(a) A distributing pool plant that has:

(1) Route disposition, except filled milk, during the month of not less than 50 percent (40 percent for each month of April through August) of the total receipts of fluid milk products, except filled milk, that are approved by a duly constituted health authority for fluid consumption and that are physically received at such plant or diverted as producer milk pursuant to § 1036.16 to plants other than those qualified as pool plants pursuant to this paragraph; and

(2) Route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of the receipts described in subparagraph (1) of this paragraph.

(b) A supply plant from which during the months of September, October, and November, not less than 50 percent, and in all other months not less than 40 percent, of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received (excluding that diverted from other plants) at such plant from dairy farmers and handlers defined in § 1036.13(d) or diverted as producer milk pursuant to § 1036.16 to pool plants and nonpool plants is transferred or diverted to and physically received in the form of fluid milk products, except filled milk, at pool plants qualified under paragraph (a) of this section or disposed of as route disposition in the marketing area.

(c) A plant that qualified as a pool plant under paragraph (b) of this section on the basis of its transfers and diversions to pool plants (exclusive of its route disposition in the marketing area) in each of the immediately preceding months of September through February shall be a pool plant for the months of March through August unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a 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 as a nonpool plant for such month and each subsequent month through August

during which it would not otherwise qualify as a pool plant.

(d) A plant(s) that is approved by a duly constituted health authority to handle milk for fluid consumption, that is operated by a cooperative association, and from which during the month the quantity of fluid milk products (except filled milk) shipped to pool plants qualified pursuant to paragraph (a) of this section plus the milk physically received at such plants by direct delivery from the farms of producer members of the cooperative association is not less than 65 percent in any month of September through April and not less than 50 percent in any other month of the cooperative association members' producer milk. If the cooperative association operating a plant qualified as a pool plant pursuant to this paragraph files with the market administrator prior to the first day of any month a written request for nonpool status for such plant, the plant shall be a nonpool plant for such month and for each of the next 11 months in which it does not qualify as a pool plant pursuant to paragraph (a), (b), or (c) of this section.

3. In § 1036.16, paragraph (e) and (f) are revised as follows:

§ 1036.16 Producer milk.

* * * * *

(e) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted;

(2) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be deemed to have been received at such pool plant and shall not be producer milk;

(3) In any month of August through March, the quantity of milk of any producer diverted to nonpool plants that exceeds that physically received at pool plants shall be deemed to have not been received by the diverting handler and shall not be producer milk;

(4) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk;

(5) In determining if the diversion limitations specified in this paragraph have been exceeded, the quantity of milk diverted to nonpool plants or physically received at pool plants shall be considered in terms of days of production of the producer; and

(6) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

(f) Milk diverted from a pool plant to another pool plant shall be deemed to have been received by the diverting handler at the location of the pool plant to which diverted.

4. Section 1036.17 is revised as follows:

§ 1036.17 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source except producer milk, fluid milk products and bulk fluid cream products from pool plants, and fluid milk products and bulk fluid cream products in inventory at the beginning of the month;

(b) Receipts of packaged fluid cream products from other plants;

(c) Products, other than fluid milk products, bulk fluid cream products and Class II products listed in § 1036.41(b)(3), from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for.

5. Section 1036.20 is revoked and a new § 1036.20 is added as follows:

§ 1036.20 Fluid cream product.

"Fluid cream product" means cream (including aerated cream and sterilized cream) or a mixture of cream and milk or skim milk containing 10.5 percent or more butterfat.

§ 1036.21 [Revoked]

6. Section 1036.21 is revoked.

7. In § 1036.27, paragraphs (j), (l), (m), and (n) are revised as follows:

§ 1036.27 Additional duties of the market administrator.

* * * * *

(j) Publicly announce on or before:

(1) The fifth day of each month:

(i) The Class I price for the following month;

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

(iii) The butterfat differential for the preceding month; and

(2) The 14th day of each month, the uniform price for the preceding month;

* * * * *

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1036.45(a)(13) and the corresponding step of § 1036.45(b), 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;

(m) 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 or bulk fluid cream products from an other order plant, the classification to which such receipts are allocated pursuant to § 1036.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in the verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products and bulk fluid cream products to an other order plant the classification to which the skim milk and butterfat in such fluid milk products and bulk fluid cream 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.

8. In § 1036.30, subparagraphs (1) and (2) of paragraph (a) are revised as follows:

§ 1036.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(1) Receipts of skim milk and butterfat contained in or represented by:

(i) Producer milk, showing in the case of milk received directly from each producer the pounds and butterfat test and the number of days of production involved for each producer;

(ii) Fluid milk products and fluid cream products from other pool plants and from a handler defined in § 1036.13(d) that also operates a pool plant; and

(iii) Other source milk:

(2) Inventories at the beginning and end of the month of the following products:

(i) Fluid milk products; and

(ii) Fluid cream products, showing separately such inventories in bulk form and in packaged form;

* * * * *

9. Section 1036.41 is revised as follows:

§ 1036.41 Classes of utilization.

Subject to the conditions set forth in § 1036.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) and (c) of this section; and

(2) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Except as provided in paragraph (c) of this section, Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product;

(2) In inventory at the end of the month of packaged fluid cream products;

(3) Used to produce yogurt, sour cream, sour cream products (e.g., dips), cottage cheese, and cottage cheese curd; and

(4) Disposed of in bulk as fluid milk products or fluid cream products to any commercial food processing establishment (other than a milk or filled milk plant) for the manufacture of packaged food products (other than milk products

and filled milk) for consumption off the premises.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts and frozen dessert mixes, eggnog, frozen cream, butter, cheese (excluding cottage cheese and cottage cheese curd), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, any product containing 6 percent or more nonmilk fat (or oil), milk shake mixes containing 12 percent or more total milk solids, and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of this section) in hermetically sealed glass or metal containers;

(2) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of fluid milk products and bulk fluid cream products at the end of the month;

(5) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(6) Skim milk and butterfat, respectively, in each pool plant's shrinkage, but not in excess of:

(i) Two percent of producer milk physically received at the plant (except that received from a handler defined in § 1036.13(d));

(ii) Plus 1.5 percent of milk received from a handler defined in § 1036.13(d) and of milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(iii) Plus 0.5 percent of producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no percentage shall apply;

(iv) Plus 1.5 percent of bulk fluid milk products received by transfer from other pool plants;

(v) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III classification was requested by the operators of both plants;

(vi) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II or Class III classification is requested by the handler; and

(vii) Less 1.5 percent of the quantity of bulk fluid milk products transferred to other plants that does not exceed such quantity to which percentages were applied pursuant to subdivisions (i), (ii), (iv), (v), and (vi) of this subparagraph;

(7) Skim milk and butterfat, respectively, in shrinkage of other source milk assigned pursuant to § 1036.42(b)(2); and

(8) Skim milk and butterfat, respectively, in shrinkage of milk from producers that is diverted from a pool plant to a nonpool plant by a cooperative association acting as a handler pursuant to § 1036.13(c) or in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1036.13(d), but not in excess of 0.5 percent of the receipts of milk from producers, exclusive of such receipts for which farm weights are used as the basis of receipt at the plant to which delivered.

10. In § 1036.42, paragraph (b) is revised as follows:

§ 1036.42 Shrinkage.

* * * * *

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1036.41(c)(6); and

(2) Other source milk in the form of bulk fluid milk products exclusive of that specified in § 1036.41(c)(6).

11. Section 1036.43 is revised as follows:

§ 1036.43 Interplant movements.

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

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

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after the computations pursuant to § 1036.45(a)(13) and the corresponding step of § 1036.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.45(a)(7) and the corresponding step of § 1036.45(b), 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 plant received during the month other source milk to be allocated pursuant to § 1036.45(a)(12) or (13) and the corresponding steps of § 1036.45(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 plant.

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraph (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 as Class II or Class III in his report submitted pursuant to § 1036.30;

(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 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, 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 milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant;

(ii) Any route disposition 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 of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant;

(iii) Class I utilization (exclusive of that resulting from transfers of fluid milk products to pool plants and other order plants) 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 regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant and any remaining Class I utilization (including that resulting from transfers of fluid milk products to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool plants and other order plants; and

(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 III milk to the extent Class III utilization is available and the remainder as Class II milk; and

(d) 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 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, movements in bulk form shall be classified as Class III milk to the extent of the Class III 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 only two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk and butterfat allocated to the other class shall be classified as Class III milk; 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 § 1036.41.

12. Section 1036.45 is revised as follows:

§ 1036.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1036.44, the market administrator shall determine the classification of producer milk for each handler as follows: *Provided*, That the classification of producer milk for which a cooperative association is the handler pursuant to § 1036.13 (c) or (d) shall be determined separately from the operations of any pool plant operated by such cooperative association:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1036.41(c)(6);

(2) Subtract from the total pounds of skim milk in 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;

(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 (7)(v) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III milk pursuant to § 1034.41(c)(5) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products received from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1036.41(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product or a fluid cream product) that was not subtracted pursuant to subparagraphs (4) and (6) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) and bulk fluid cream products for which appropriate health approval is not established and receipts of fluid milk products and bulk fluid cream products, from unidentified sources;

(iii) Receipts of fluid milk products and bulk fluid cream products from a producer-handler, as defined under this or any other Federal order;

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

(v) 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;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in bulk fluid cream products received from nonpool plants that were not subtracted pursuant to subparagraph (7)(iii) of this paragraph and in packaged fluid cream products in inventory at the beginning of the month that were not subtracted pursuant to subparagraph (5) of this paragraph;

(9) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II and Class III (beginning with Class III), but not in excess of such quantities:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) and (7)(iv) of this paragraph:

(*a*) For which the handler requests Class III classification; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants that were not subtracted pursuant to subparagraph (7)(v) of this paragraph; and

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (7)(v) of this paragraph, in excess of similar transfers to such plant, if Class III classification was requested by the operator of such plant and the handler;

(10) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products and bulk fluid cream products;

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

(12) 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 that were not subtracted pursuant to subparagraphs (2), (7)(iv), and (9)(i) of this paragraph;

(13) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant that are in excess of similar transfers to the same plant and that were not subtracted pursuant to subparagraphs (7)(v) and (9)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market

administrator pursuant to § 1036.27(l) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(i) From Class I, the remaining pounds of such receipts;

(14) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products received from pool plants of other handlers according to the classification of such products pursuant to § 1036.43(a);

(15) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of milk from a handler defined in § 1036.13(d) that also operates a pool plant;

(16) If the pounds of skim milk remaining 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 III. 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.

13. In § 1036.51, that portion preceding paragraph (b) thereof is revised as follows:

§ 1036.51 Class prices.

Subject to the provisions of § 1036.53, the class prices per hundredweight for milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.85.

* * * * *

§ 1036.52 [Revoked]

14. Section 1036.52 is revoked.

15. Section 1036.53 is revised as follows:

§ 1036.53 Location adjustments to handlers.

(a) At a plant in the marketing area and outside Zone 1, the Class I price for producer milk shall be adjusted as follows:

(1) At a plant in Zone 2, the Class I price shall be increased 5 cents; and

(2) At a plant in Zone 3, the Class I price shall be increased 10 cents.

(b) At a plant outside the marketing area, the Class I price shall be that applicable pursuant to paragraph (a) of this section at the location of the nearest of the cities here listed (Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va. to such plant. Such Class I price shall be further adjusted by a reduction of 1.5 cents for each 10 miles or fraction thereof that such plant is from the city hall of the nearest of the above named cities. Distances applied pursuant to this paragraph shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(d) For the purpose of computing location adjustments pursuant to paragraph (b) of this section, fluid milk products physically received at a pool plant from other pool plants shall be assigned any remainder of Class I milk at such plant that is in excess of 92.5 percent of the sum of producer milk receipts at the plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence beginning with receipts from the plant(s) at which the highest Class I price is applicable.

16. Section 1036.54 is revised to read as follows:

§ 1036.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

17. Section 1036.60 is revised as follows:

§ 1036.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler defined in § 1036.13 (a), (c), and (d) for each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1036.45(c) by the applicable class price, adjusted pursuant to § 1036.53;

(b) Add the amounts obtained from multiplying the overage deducted from each class pursuant to § 1036.45(a) (16) and the corresponding step of § 1036.45 (b) by the applicable class price adjusted pursuant to §§ 1036.53 and 1036.71;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I or Class II price for the current month, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1036.45(a) (10) and the corresponding step of § 1036.45 (b);

(d) Add the amount obtained from multiplying the difference between the Class I price at the pool plant and the Class III price, both for the current month, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.45(a) (7) and (8) and the corresponding steps of § 1036.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1036.45(a) (7) (iv) and (v) and the corresponding steps of § 1036.45(b) the Class I price shall be adjusted to the location of the transferor plant and

(e) Add the amount obtained from multiplying the Class I price adjusted for the location of the nearest nonpool plants from which an equivalent volume was received by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.45(a) (12) and the corresponding step of § 1036.45(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.

18. Section 1036.61 is revised as follows:

§ 1036.61 Computation of the uniform price.

For each month, the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1036.60 for all handlers who filed the reports pursuant to § 1036.30 for the month, except those in default of payments required pursuant to § 1036.74 for the preceding month;

(b) Add an amount equal to the total value of the minus location differentials applicable pursuant to § 1036.72;

(c) Subtract an amount equal to the total value of the plus location differentials applicable pursuant to § 1036.72;

(d) Add an amount equal to one-half the unobligated balance in the producer settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1036.60(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each of the months of April, May, June, and July the amount obtained by multiplying the hundredweight of producer milk specified in paragraph (e)(1) of this section by a rate that is equal to 6 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but not to exceed 25 cents;

(i) Add for each of the months of September, October, and November one-fourth of the total amount subtracted

pursuant to paragraph (h) of this section for the preceding period of April through July, and add for the month of December the remainder of such total amount plus any interest earned on such total amount;

(j) Divide the amount resulting from the computations pursuant to paragraphs (g), (h), and (i) of this section by the hundredweight of producer milk specified in paragraph (e)(1) of this section; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

19. Section 1036.62 is revised as follows:

§ 1036.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-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 §§ 1036.30and 1036.31(b) 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) The obligation that would have been computed pursuant to § 1036.60 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) 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;

(ii) Transfers from such nonpool plants to a pool plant or other order plant shall be classified as Class II or Class III 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 III price. 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 § 1036.60(e) and a credit in the amount specified in § 1036.-74(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 III price, unless an obligation with respect to such plant is computed as specified below in subdivision (iii) of this subparagraph.

(iii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1036.30 a similar report for each 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 § 1036.11 (b) and (c), 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, deduct the sum of:

(i) The gross payments made by such handler for milk 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) 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 in the plant's route disposition in the marketing area;

(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;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

20. In § 1036.70 paragraph (c) is revised as follows:

§ 1036.70 Time and method of payment.

* * * * *

(c) On or before the 15th day after the end of each month, each handler shall pay a cooperative association at not less than the class prices adjusted pursuant to §§ 1036.53 and 1036.71 for milk which he receives:

(1) By transfer or diversion from a pool plant operated by such cooperative association; or

(2) From such cooperative association in its capacity as a handler pursuant to § 1036.13(d), if such cooperative association also operates a pool plant.

21. Section 1036.71 is revised as follows:

§ 1036.71 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent at a rate (rounded to the nearest one-tenth cent) determined by multiplying the Chicago butter price for the month by 0.115.

22. Section 1036.72 is revised as follows:

§ 1036.72 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1036.53.

(b) The weighted average price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price, except that the weighted average price shall not be less than the Class III price.

23. Section 1036.74 is revised to read as follows:

§ 1036.74 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation pursuant to § 1036.60 for such handler; and

(b) The sum of:

(1) The value at the uniform price, as adjusted pursuant to § 1036.72, of such handler's receipts of producer milk; and

(2) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1036.60(e).

24. Section 1036.77 is revised to read as follows:

§ 1036.77 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 16th 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 § 1036.45(a) (7) and

(12) and the corresponding steps of § 1036.45(b), except such other source milk on which no handler obligation applies pursuant to § 1036.60(e); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1036.62(b)(2).

Signed at Washington, D.C., on July 17, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 91, 121, 123, 135]

[Docket No. 9481; Notice No. 72-17]

LANDING MINIMUMS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Parts 91, 121, and 135 of the Federal Aviation Regulations to establish criteria for the commencement of instrument approaches and to update and clarify the requirements applicable to the instrument landing procedures and minimums prescribed therein. It is also proposed to amend Part 123 to delete the referenced weather reporting provision in Part 121 that would become obsolete as a result of this proposal and to include a reference to the new section in Part 121 that would be added.

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: 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 October 18, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the rules docket for examination by interested persons.

Part 97 of the Federal Aviation Regulations prescribes standard instrument approach procedures for instrument letdown to many airports in the United States and prescribes the weather minimums applicable to takeoffs and landings under instrument flight rules (IFR) at those airports for which procedures are prescribed. Section 91.116(b) prohibits a person from landing an aircraft using a Part 97 instrument approach procedure unless the visibility is at or above the landing minimum prescribed for the particular procedure. Section 91.117(b) prohibits a person from operating an aircraft below the prescribed minimum descent altitude (MDA) or from continuing an approach below the decision height (DH) unless the aircraft is in a position from which a normal approach to the runway of intended landing can be made, and the approach threshold of that runway, or approach lights or other markings identifiable with the approach end of that runway, are clearly visible to the pilot. In addition, § 91.117(b) requires that the pilot shall execute the appropriate missed approach procedure if the requirements of that paragraph are not met when the pilot reaches the missed approach point or decision height or at any time thereafter.

In contrast to the provisions of Part 91 concerning instrument approaches and landings cited above, Parts 121 and 135 are more specific with regard to when an instrument approach may be made. Sections 121.651(b) (domestic and flag air carriers), 121.653 (supplemental air carriers and commercial operators), and 135.111 (air taxi operators and commercial operators of small aircraft) prohibit, with certain exceptions discussed below, the execution of an instrument approach or a landing under IFR if reported visibility is less than the prescribed minimums for the airport involved. Currently, both §§ 121.651 and 135.65 require that the pilot base his determination of proper visibility on weather reports issued by the U.S. National Weather Service or a source approved by that Service.

Based on operating experience under Parts 91, 121, and 135 with regard to the subject matter of this notice, and an examination of several accidents which have occurred in marginal to bad weather conditions, the FAA believes that, where U.S. National Weather Service reports (or reports from a source approved by the Service or the Administrator) are available for an airport, commencement of instrument approaches to that airport should be permitted only when the reports indicate that the required visibility minimums exist.

The proposals made in this notice would, if adopted, amend Part 91 by adding the requirements to be discussed below, and would amend Parts 121 and 135 by deleting the landing minimum requirements therein, thus making the proposals applicable to all operators.

Beginning final approach segment. Section 91.116 would be revised to prohibit a person from beginning the final approach segment of an instrument approach procedure when the current U.S. National Weather Service report or a source approved by the Service or the Administrator indicates that the visibility is less than the minimum landing visibility prescribed for the particular instrument approach procedure involved. This proposed prohibition against beginning the final approach segment would apply only at airports where weather is reported by the U.S. National Weather Service or a source approved by the Service or the Administrator. At airports where such official weather reports are not available, the pilot would, as under current Part 91 regulations, be responsible for determining that the weather conditions are equal to or better than the prescribed minimums before descending below the MDA or continuing an approach below the DH. As noted previously, this proposed revision to § 91.116 would result in the deletion of §§ 121.651 (b) and (d), 121.653 (b) and (c), and 135.111 (a) and (b). It should be pointed out that those requirements currently prohibit "executing an instrument approach" unless the visibility is equal to or more than the prescribed minimum. Because the term "executing" is broad enough to cover all portions of an approach, these sections require, in the absence of the exceptions stated therein for aircraft that have begun the final approach, that an approach be abandoned at any point if visibility is below prescribed minimums. The proposed revision to § 91.116 has no such exceptions because, under the proposal, if a report of visibility below minimums is received after beginning the final approach segment, the approach may be continued to the DH or missed approach point regardless of the visibility encountered after the final approach segment is begun.

Section 97.3(c)(4) defines "final approach" as the segment between the final approach fix or point and the runway, airport, or missed approach point. There is a final approach segment in every instrument approach procedure.

Landing minimums. It is proposed to retain the substance of current §91.116 (b), with one change. As revised, this requirement is based upon the flight visibility and would continue the prohibition against making a landing pursuant to a standard instrument approach procedure prescribed in Part 97 unless the flight visibility is equal to or more than the visibility prescribed in that procedure. The use of flight visibility in this requirement is proposed for the purpose of clarity and in recognition of the fact that the pilot is responsible for making the determination of required visibility.

Descent below MDA or DH. The substance of paragraph (b) of current § 91.117 would be transferred to § 91.116 as a new paragraph (d). This paragraph would prohibit operation below the minimum descent altitude (MDA) or the continuance of an approach below the decision height (DH) unless the prescribed conditions are met. Those conditions would require: (1) That the approach lights for the runway of intended landing, the threshold, the threshold lights, runway end identifier lights, or touchdown zone lights for that runway be clearly visible to the pilot; and (2) that the aircraft be in a position from which a normal approach to a landing on the intended runway can be made. In some instances, pilots have interpreted the phrase in the current rule "other markings identifiable with the approach end of the runway" to include towers, stacks, buildings, and other landmarks which may be located far from the end of the runway and may have descended below the MDA using these landmarks.

This language has also been interpreted by pilots to allow the use of a series of landmarks as progress points for instrument approaches. Therefore, the agency believes that proposed § 91.116(d)(1), as discussed above, will help correct these practices.

Missed approach procedures. The missed approach requirements of current § 91.117(b) would be moved to § 91.116, placed in new paragraph (e), and revised to make it clear when a missed approach is required during a straight-in and circling approach. As proposed, a pilot must follow the appropriate missed approach procedure if, in the case of a straight-in approach, upon arrival at the missed approach point or at any time thereafter, he cannot clearly see the approach lights of the runway, the threshold, the threshold lights, runway end identifier lights or touchdown zone lights, or if the aircraft is not in a position from which a normal rate of descent to a landing on the intended runway can be made using normal maneuvers. With regard to a circling approach, it is proposed to require that the pilot follow the appropriate missed approach procedure if, upon his arrival at the missed approach point or at any time thereafter, the airport is not clearly in sight and does not remain clearly in sight while the pilot is circling the airport, or upon descending below the MDA, the approach lights for the runway of intended landing, the runway threshold, the threshold lights, the runway end identifier lights, or the touchdown zone lights are not clearly visible to him, or the aircraft is not in a position from which a normal rate of descent to a landing on the intended runway can be made using normal maneuvers.

Applicability of reported weather minimums. A new paragraph (f) would be added to § 91.116 to prescribe the visibility to be used to comply with the requirements of § 91.116 described above. As proposed, § 91.116(f) provides that the visibility in the main body of the U.S. National Weather Service report or the visibility reported by a source approved by the Service or the Administrator, controls for IFR takeoffs and for instrument approaches on all runways of an airport. However, if the visibility is reported in terms of runway visibility or runway visual range (RVR) for a particular runway, that visibility would control for IFR takeoffs and straight-in instrument approaches for that runway; or, if the report contains a visibility report for a sector which includes the approach or takeoff area for the runway to be used, and no runway visibility or runway visual range is reported for that runway, the visibility contained in the sector report would control for IFR takeoffs and instrument approaches, as appropriate, for that runway.

Limitations on procedure turns. Current paragraph (h) of § 91.116 would be redesignated as paragraph (l) and revised to prohibit a procedure turn under the limitations prescribed therein unless the pilot has received authorization to make that turn by ATC. This change is considered necessary because traffic conflicts may not permit the use of the turn, and under the present rule, merely advising ATC that the turn will be made does not solve the problem of such conflicts.

Revision of Part 121 and Part 135 landing minimum requirements. As noted previously, the landing requirements applicable to air carriers and commercial operators of both large and small aircraft in §§ 121.651, 121.653, and 135.111 would be deleted. These sections allow a pilot, who has initiated an approach when the current weather report indicates that the prescribed minimum visibility exists, to continue the approach under specified conditions if a later report indicates below minimum conditions, and he may land if he finds, upon reaching the MDA or DH, that actual weather conditions are at least equal to the prescribed minimums. These "look-see" provisions would not be necessary if § 91.116 is revised as proposed. Under the proposal, when a pilot has begun the final approach segment, which he may do only if the current report indicates the prescribed visibility minimums exist, he may continue down to the MDA or DH, and, if the requirements of proposed § 91.116(d) can be met, he may land. The effect of the proposal is that the pilot must exercise his judgment as to the adequacy of the visibility for the final descent, touchdown, and rollout portions of a landing. This proposal is, in part, in response to a petition for rule making submitted by the Air Transport Association of America, which requested an amendment to § 121.651(d)(2) to accomplish what the FAA has proposed in § 91.116.

In furtherance of the objectives of this notice, it is also proposed to delete the provisions in § 121.651(c) for landing when the visibility is less than the approved minimums and when the pilot uses both ILS and PAR. Paragraph (a)(2) of § 121.653 would also be deleted because it duplicates requirements in current § 91.116(c). In light of these proposed changes to §§ 121.651 and 121.653, those sections would be combined in § 121.651. Furthermore, inasmuch as § 91.116 would, if adopted, contain the approach and landing requirements applicable to operations conducted under Parts 121 and 135, and because the applicability of Subpart B of Part 91 (which includes § 91.116) is limited to the operation of aircraft within the United States, it is proposed to amend § 121.651 (and § 135.111) to require that the provisions of § 91.116 would be applicable to operations conducted under Parts 121 and 135, including operations conducted outside the United States.

Insofar as IFR landing minimums are concerned, it is proposed to amend § 121.652(a) to delete the reference to regular, provisional, and refueling airports since this reference is inapplicable to operations conducted by supplemental air carriers. This is appropriate since the section applies to all Part 121 certificate holders. Furthermore, the proposal would eliminate the 300 and one basic minimums since improved training of pilots, more advanced equipment on the airplanes, and more modern approach and landing facilities at airports have reduced the need for such requirements.

As a part of this notice, the FAA is also proposing two additional changes. The first would delete paragraph (b) of § 121.649 which currently permits the visibility for day and night VFR operations to be reduced to one-half mile where a local surface restriction exists (e.g., smoke, dust, blowing sand, or snow), if all turns after takeoff and prior to landing, and all flight beyond 1 mile from the airport boundary can be accomplished above or outside the area of such restriction. Based upon recent adverse operating experience under this provision, the fact that air traffic has increased substantially since its adoption, and the fact that the aircraft affected have changed significantly since that time, the FAA believes that there is no longer justification for retaining it.

Second, it is proposed to amend the Category II requirements of § 91.6(c) concerning operation below the DH, by making the language of those requirements generally consistent with the language of proposed § 91.116(d), but prohibiting descent below a height of 100 feet above the touchdown zone (TDZ) elevation unless the runway threshold or threshold lights are clearly visible to the pilot. This prohibition is considered suitable in light of the geometry of a Category II approach since the FAA believes that the pilot should have such visual reference at 100 feet or more above the TDZ with an RVR of 1,200 feet or more. If he does not, he must execute a missed approach procedure.

Finally, it should be noted that although this notice publishes, for editorial purposes, certain provisions of current §§ 91.116 and 91.117 concerning IFR takeoff minimums, comments should be limited to the proposals contained herein concerning approach and landing requirements.

In consideration of the foregoing, it is proposed to amend Parts 91, 121, 123, and 135 of the Federal Aviation Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. By amending § 91.6(c) to read as follows:

§ 91.6 Category II operation: General operating rules.

* * * * *

(c) Unless otherwise authorized by the Administrator, no person operating an aircraft in a Category II operation, may—

(1) Continue an approach below the authorized decision height unless—

(i) The approach lights for the runway of intended landing are clearly visible to the pilot; and

(ii) The aircraft is in a position from which a normal rate of descent to a landing on the intended runway can be made using normal maneuvers; or

(2) Descend below a height of 100 feet above the touchdown zone (TDZ)

elevation unless the runway threshold or threshold lights are clearly visible to him.

If upon arrival at the authorized decision height, or at a height of 100 feet above the touchdown zone (TDZ) elevation, any of the above requirements are not met, the pilot shall immediately execute the appropriate missed approach procedure. For the purposes of this paragraph, the authorized decision height is the decision height prescribed for the approach, authorized for the pilot in command, or for which the aircraft is equipped, whichever is higher.

* * * * *

2. By amending § 91.116(b), (c), (d), (e), (f), (g), (h), (i), (j), (k) and (l) to read as follows:

§ 91.116 Takeoff and landing under IFR: General.

* * * * *

(b) *Final approach segment.* Unless otherwise authorized by the Administrator, no person operating an aircraft (except a military aircraft of the United States) may begin the final approach segment of a standard instrument approach procedure prescribed in Part 97 of this chapter to an airport for which the U.S. National Weather Service or a source approved by that Service or the Administrator issues a weather report unless the visibility reported in the latest weather report is equal to or more than the visibility minimum prescribed in that procedure.

(c) *Landing minimums.* Unless otherwise authorized by the Administrator, no person operating an aircraft (except a military aircraft of the United States) may land or attempt to land that aircraft using a standard instrument approach procedure prescribed in Part 97 of this chapter unless the flight visibility is equal to or more than the visibility prescribed in that procedure.

(d) *Descent below MDA or DH.* Unless otherwise authorized by the Administrator, no person may operate an aircraft below the MDA or continue an approach below the DH unless—

(1) The approach lights for the runway of intended landing, the runway threshold, the threshold lights, the runway end identifier lights, or the touchdown zone lights are clearly visible to the pilot; and

(2) The aircraft is in a position from which a normal rate of descent to a landing on the intended runway can be made using normal maneuvers.

(e) *Missed approach procedure.* Unless otherwise authorized by the Administrator, the pilot shall follow the appropriate missed approach procedure if, upon arrival at the missed approach point or at any time thereafter—

(1) During a straight-in approach—

(i) The approach lights for the runway of intended landing, the runway threshold, the threshold lights, the runway and identifier lights, or the touchdown zone lights are not clearly visible to the pilot; or

(ii) The aircraft is not in a position from which a normal rate of descent to a landing on the runway of intended landing can be made using normal maneuvers.

(2) During a circling approach, the airport is not clearly in sight and does not remain clearly in sight while circling the airport at the MDA, or upon descending below the MDA—

(i) The approach lights for the runway of intended landing, the runway threshold, the threshold lights, the runway end identifier lights, or the touchdown zone lights are not clearly visible to the pilot; or

(ii) The aircraft is not in a position from which a normal rate of descent to a landing on the runway of intended landing can be made using normal maneuvers.

(f) *Applicability of reported weather minimums.* For the purpose of this section, unless otherwise authorized by the Administrator, the visibility in the main body of the U.S. National Weather Service report or the visibility reported by a source approved by that Service or the Administrator controls for IFR takeoffs and for instrument approach procedures on all runways of an airport. However—

(1) If the report contains a visibility specified as runway visibility or runway visual range for a particular runway, that visibility controls for IFR takeoffs and straight-in instrument approaches for that runway; or

(2) If the report contains a visibility report for a sector which includes the approach or takeoff area for the runway to be used and no runway visibility or runway visual range is reported for that runway, the visibility in the sector report controls for IFR takeoffs and instrument approaches, as appropriate, for that runway.

(g) *Civil airport takeoff minimums.* Unless otherwise authorized by the Administrator, no person operating an aircraft under Part 121, 123, 129, or 135 of this chapter may takeoff from a civil airport under IFR unless weather conditions are at or above the weather minimums for IFR takeoff prescribed for that airport in Part 97 of this chapter. If takeoff minimums are not prescribed in Part 97 of this chapter for a particular airport, the following minimums apply to takeoffs under IFR for aircraft operating under those parts:

(1) Aircraft having two engines or less: 1 statute mile visibility.

(2) Aircraft having more than two engines: ½ statute mile visibility.

(h) *Military airports.* Unless otherwise prescribed by the Administrator, each person operating a civil aircraft under IFR into, or out of, a military airport shall comply with the instrument approach procedures and the takeoff and landing minimums prescribed by the military authority having jurisdiction on that airport.

(i) *Comparable values of RVR and ground visibility.* (1) If RVR minimums for takeoff or landing are prescribed in an instrument approach procedure, but RVR is not reported for the runway of intended operation, the RVR minimum shall be converted to ground visibility in accordance with the table in subparagraph (2) of this paragraph and observed as the applicable visibility minimum for takeoff or landing on that runway.

(2) RVR:

Visibility	*(statute miles)*
1,600 feet	¼ mile
2,400 feet	½ mile
3,200 feet	⅝ mile
4,000 feet	¾ mile
4,500 feet	⅞ mile
5,000 feet	1 mile
6,000 feet	1¼ miles

(j) *Use of radar in instrument approach procedures.* When radar is approved at certain locations for ATC purposes, it may be used not only for surveillance and precision radar approaches, as applicable, but also may be used in conjunction with instrument approach procedures predicated on other types of radio navigational aids. Radar vectors may be authorized to provide course guidance through the segments of an approach procedure to the final approach fix or position. Upon reaching the final approach fix or position, the pilot shall either complete his instrument approach in accordance with the procedure approved for the facility, or continue a surveillance or precision radar approach to a landing.

(k) *Use of low or medium frequency simultaneous radio ranges for ADF procedures.* Low frequency or medium frequency simultaneous radio ranges may be used as an ADF instrument approach aid if an ADF procedure for the airport concerned is prescribed by the Administrator, or if an approach is conducted using the same courses and altitudes for the ADF approach as those specified in the approved range procedure.

(l) *Limitations on procedure turns.* In case of a radar initial approach to a final approach fix or position, or a timed approach from a holding fix, or where the procedure specifies "NOPT," no pilot may make a procedure turn unless he is cleared to do so by ATC.

3. By deleting and reserving paragraph (b) of § 91.117.

§ 91.117 [Amended]

* * * * *

(b) [Reserved].

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

4. By adding a new section immediately following § 121.79 to read as follows:

§ 121.80 Weather reporting facilities.

(a) No certificate holder may operate over any route or at any airport unless weather reports for such operation are

available. Each domestic and flag air carrier must show that such weather reports are available.

(b) No certificate holder may use any weather report to control flight unless—

(1) For operations conducted within the 48 contiguous States and the District of Columbia, it was prepared by the U.S. National Weather Service or a source approved by that Service; or

(2) For operations conducted outside the 48 contiguous States and the District of Columbia, it was prepared by a source approved by the Administrator.

5. By amending § 121.93(a)(2) to read as follows:

§ 121.93 Route requirements: General.

(a) * * *

(2) That the facilities and services required by § 121.80 and §§ 121.97 through 121.107 are available and adequate for the proposed operation.

* * * * *

§ 121.101 [Reserved]

6. By deleting and reserving § 121.101.

§ 121.119 [Reserved]

7. By deleting and reserving § 121.119.

§ 121.649 [Amended]

8. By deleting and reserving paragraph (b) of § 121.649.

9. By amending § 121.651 to read as follows:

§ 121.651 IFR takeoff and landing minimums.

(a) Regardless of any clearance from ATC, no pilot may take off an airplane under IFR if the weather conditions reported by the U.S. National Weather Service or a source approved by the National Weather Service or the Administrator are less than that specified for the takeoff airport in Part 97 of this chapter, or in the certificate holder's operations specifications for the airport.

(b) Except as provided by § 121.652 or unless otherwise authorized in the certificate holder's operations specifications, the requirements for approaching and landing under IFR prescribed in § 91.116 of this chapter apply to operations conducted under this part.

(c) Unless otherwise authorized in the certificate holder's operations specifications, each pilot making an IFR takeoff, approach, or landing at a foreign airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over that airport.

10. By amending § 121.652(a) to read as follows:

§ 121.652 Landing weather minimums: IFR: All certificate holders.

(a) If the pilot in command of an airplane has not served 100 hours as pilot in command in operations under this part in the type of airplane he is operating, the MDA or DH and visibility landing minimums are increased by 100 feet and one-half mile (or the RVR equivalent). The MDA or DH and visibility minimums need not be increased above those applicable to the airport when used as an alternate airport.

* * * * *

§ 121.653 [Reserved]

11. By deleting and reserving § 121.653.

12. By amending § 121.655 to read as follows:

§ 121.655 Applicability of reported weather minimums.

In conducting operations under § 121.649, the ceiling and visibility in the main body of the U.S. National Weather Service report or the ceiling and visibility reported by a source approved by that Service or the Administrator control for VFR takeoffs and landings. However—

(a) If the report contains a visibility specified as runway visibility or runway visual range for a particular runway, that visibility controls for VFR takeoffs and landings; or

(b) If the report contains a visibility report or a ceiling report for a sector that includes the approach or takeoff area for the runway to be used and no runway visibility or runway visual range is reported for that runway, the visibility or ceiling in the sector report controls for VFR takeoffs and landings for that runway.

PART 123—CERTIFICATION AND OPERATIONS: AIRTRAVEL CLUBS USING LARGE AIRPLANES

13. By amending § 123.27(b) to read as follows:

§ 123.27 Applicable regulations of Part 121.

* * * * *

(b) Sections 121.80, 121.117, and 121.121 of Subpart F.

* * * * *

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

14. By adding a new section immediately following § 135.99 to read as

§ 135.100 Weather reports: IFR operations.

No person may operate, under IFR, over any route or at any airport unless weather reports for such operation are available.

15. By amending § 135.111 to read as follows:

§ 135.111 IFR: takeoff, approach, and landing minimums.

(a) Unless otherwise authorized in the certificate holder's operations specifications, the requirement for approaching and landing under IFR prescribed in § 91.116 of this chapter apply to operations conducted under this part.

(b) The ceiling and visibility landing minimums prescribed in Part 91 of this chapter or in the operator's operations specifications are increased by 100 feet and ½ mile respectively, but not to exceed the ceiling and visibility minimums for that airport when used as an alternate airport, for each pilot in command of a turbine-powered airplane who has not served at least 100 hours as pilot in command in that type of airplane.

(c) Unless otherwise authorized in the certificate holder's operations specifications, each pilot making an IFR takeoff, approach, or landing at a military or foreign airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over that airport. In addition, no pilot may, at such an airport—

(1) Take off under IFR when the visibility is less than 1 mile; or

(2) Begin an instrument approach when the visibility is less than one-half mile.

These amendments are proposed under the authority of sections 307, 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 13, 1972.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.72-11168 Filed 7-19-72;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 83]

[Docket No. 19543; FCC 72-618]

STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Proposed Requirements

In the matter of amendment of Part 83 concerning requirements for two receivers on board vessels licensed in the 156–162 MHz band. Docket No. 19543; RM 1814; RM 1818.

1. Notice of proposed rule making in the above-entitled matter is hereby given.

2. This proposal is being issued in response to separate petitions filed by the North Pacific Marine Radio Council, Inc. (NPMRC) and the Southern California Marine Radio Council (SCMRC). Both petitioners seek the same relief and, therefore, the two petitions are hereby consolidated in this proceeding. The petitioners have requested that § 83.224 of the Commission's rules be amended so that maintaining a watch on the frequency 156.800 MHz will not be required when the ship station is being used for transmission on that frequency or when communicating on other frequencies in this band.

3. Section 83.224 of the Commission's rules requires that each ship station licensed to transmit by telephony on one or more frequencies within the band 156–162 MHz shall, during its hours of service in this band, maintain an efficient

watch for the reception of F3 emissions on the distress, safety, and calling frequency 156.800 MHz whenever such station is not being used for transmission on other frequencies. The effect of this section is to require two receivers, or a single receiver capable of simultaneous reception on two frequencies, be fitted on all vessels using the 156–162 MHz band, including voluntarily equipped vessels. The petitioners have requested removal of this requirement to bring the 156.800 MHz watch requirement in line with section 83.223 which governs the watch requirement for 2182 kHz. The proposed amendment would exempt a ship station from the watch requirement on 156.800 MHz whenever the station is transmitting on that frequency or communicating on other frequencies in the 156–162 MHz band.

4. NPMRC states, that most VHF sets in shipboard service today (perhaps as many as 20,000) are not now equipped for dual-channel receiving capabilities and to modify existing sets (or purchase of a self-contained portable receivers) would cost from $125 to several hundred dollars.

5. NPMRC questions the practical effectiveness of the dual watch requirement of § 83.224 during the intervals when the radio operator is concentrating upon accurately receiving a transmission directed specifically to him on the main receiver while at the same time directing his attention to transmissions being received on another receiver.

6. NPMRC states that its requested rule amendment would not adversely effect the Commission's desire for the development and successful functioning of its VHF maritime radio distress system on 156.800 MHz since ship stations would only be exempted from monitoring the frequency during short intervals when actually transmitting on that frequency or communicating on other frequencies. It has been estimated by NPMRC that vessels would be monitoring the frequency except for minutes, or fractions thereof, during 10 hours of accumulated hours of service.

7. SCMRC believes that the proposed rule amendment would not adversely effect the radio distress system on 156.800 MHz and would basically conform with the Commission's desire for a VHF maritime distress system on that frequency.

8. The proposed amendment, as set forth below, is issued pursuant to the authority contained in sections 4(i) and 303 (c), (d), (f), and (r) of the Communications Act of 1934, as amended.

9. Pursuant to the applicable procedures set forth in § 1.415 of the rules, interested persons may file comments on or before August 25, 1972, and reply comments on or before September 5, 1972. Section 1.419 of the rules requires the original and fourteen (14) copies of comments or reply comments to be filed. Comments and reply comments received in response to this notice of proposed rule making will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: July 12, 1972.

Released: July 14, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 83 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

§ 83.224 Watch on 156.800 MHz.

Each ship station, or, if more than one maritime mobile station is being operated from a vessel, then at least one station, licensed to transmit by telephony on one or more frequencies within the band 156–162 MHz shall, during its hours of service for telephony in this band, maintain an efficient watch for the reception of F3 emissions on the frequency 156.800 MHz whenever such station is not being used for transmission on that frequency, or for communication on other frequencies in this band: *Provided, however,* That ship stations operating under the provisions of § 83.106(b)(5) or the note to § 83.106 of the rules are exempt from the watch requirements on 156.800 MHz.

[FR Doc.72-11210 Filed 7-19-72;8:53 am]

[47 CFR Parts 89, 91, 93]

[Docket No. 19545; FCC 72-625]

AIR-TO-GROUND COMMUNICATION

Utilization of Land Mobile Frequencies

Memorandum opinion and order. In the matter of amendment of Parts 89, 91, and 93 of the Commission's rules concerning use of land mobile frequencies aboard aircraft. Docket No. 19545, FCC 72-625.

1. The Commission has received applications from members of the airline industry as well as informal inquiries which indicate that interest is developing in the use of land mobile frequencies, particularly in the Business Radio Service, for communicating between aircraft and air terminals. Principally, the purpose of the operations is to provide a facility to handle convenience-type phone messages for passengers, such as making or changing their hotel and car reservations, notifying relatives or friends of arrival, etc. Others have developed interest in establishing private communications systems on land mobile frequencies in connection with relatively small private aircraft operations (particularly helicopter).

2. The extensive air-ground communications systems which have been established throughout the country, both government and nongovernment, operate on radio frequencies allocated for that purpose (aeronautical mobile) principally in the bands between 108 and 136 MHz. Part 87 of our rules provides the frequency resources and the regulatory framework for the operation of nongovernment stations on the ground and on board aircraft in the aviation services. With some exceptions, the various systems authorized under Part 87 are used for communications related to the safe and efficient operation of the aircraft. In addition, aeronautical public correspondence is available through marine public coast stations and, of course, frequencies have been allocated in the 450–460 MHz band for public air ground communications service. Thus, traditionally, the Commission has recognized the unique communications needs of the aviation industry and has made provision therefor.

3. The developing interest of the industry in establishing private communications systems on land mobile frequencies indicates that existing provisions for air-ground communications may not fully meet new communications requirements. At the same time, however, the serious question is raised whether land mobile frequencies should or can be effectively utilized to meet the expanding aviation communication requirement. This is a particularly pertinent question in light of the land mobile congestion problems already in existence.

4. We believe, as a general matter, that operations on board aircraft in flight are not compatible with land-based systems. Land mobile radio systems, by their nature, are confined to fairly well defined geographic areas,[1] and are generally authorized to operate with relatively limited facilities. Consequently, the same frequency can be reassigned in other geographic areas so that several, on some frequencies hundreds, of separate systems are presently operated simultaneously throughout the country. Within a given geographic area and because of frequency shortages, especially in the Business Radio Service, several systems are often authorized to operate on the same frequency. This is made possible by adherence to sharing and coordination policies which are intended to minimize potential interference between land mobile systems. Thus, the entire regulatory plan for the land mobile services is predicated upon relatively limited coverage of systems operating within known and specified geographic areas.

5. By contrast, operation of radio systems aboard aircraft, flying at great heights, often over 30,000 feet, traversing large parts of the country at speeds of over 500 miles per hour is, it seems to us, inconsistent with the regulatory scheme

[1] Commissioner Robert E. Lee absent; Commissioner Hooks not participating.

[1] This is also true of those systems authorized in the Business and Special Industrial Radio Services which are permitted to operate over wide geographic areas on itinerant frequencies. Although such systems may move from location to location, often throughout the United States, at any specific site their coverage is limited.

for ground-based land mobile operations and can cause destructive interference to potentially hundreds of land-based systems. For this and other reasons, separate frequencies have been allocated and different regulatory schemes have been developed for the land mobile and for the aviation radio services. Thus, although the rules governing the land mobile services do not specifically proscribe operations on land mobile frequencies aboard aircraft, the structure of the rules is such as to clearly indicate that it was the Commission's intention to limit land mobile frequency allocations to land-based operations. In short, widespread use of land mobile frequencies on board aircraft could have serious consequences on the land mobile services by further degrading potentially thousands of communications systems of which many already experience severe interference problems.

6. Accordingly, we believe that air-ground communications systems, with minor exceptions mentioned below, should not be accommodated on existing land mobile frequency allocations. In the past, we have authorized land mobile licensees to operate mobile units on board aircraft in flight where few aircraft are used as an integral part of land-based operations which often required direct communications between the aircraft and the land vehicles. Examples are police helicopters, small craft used in pipeline surveillance and maintenance, aircraft used in ranch operation, and other similar combined and localized land and air operations. In these instances, the interference potential from the aircraft, although considerable compared to land vehicles, is somewhat limited. Therefore, we propose to limit use of land mobile frequencies on aircraft in flight to the type of operations just described. The rule we propose to incorporate in Parts 89, 91, and 93 of our rules would read as follows:

§ ---------- Radio facilities authorized under this part may not be operated on board aircraft in flight except where the aircraft is an integral part of an operation in which land vehicles are primarily involved and where there is a requirement for direct communications between the aircraft and the land vehicles.

7. Finally, in view of the foregoing, we find that it would not be advisable to act on pending or future applications which are inconsistent with the proposed rule.

8. As we mentioned, existing provisions in the aviation services may not fully satisfy developing communications requirements. We are looking at various possibilities for accommodating some of those requirements, particularly in connection with channel splitting actions within existing aviation allocations. Further, we will welcome specific suggestions from the aviation industry and other interested persons.

9. *Accordingly, it is ordered,* That no action will be taken on applications for operation of systems on board aircraft on land mobile frequencies which are pending or filed during this proceeding until the resolution of the issues and proposals herein. *It is further ordered,* That, notice of proposed rule making, is hereby given to amend Parts 89, 91, and 93 of the Commission's rules by adding the rule set out in paragraph 6, above.

10. Authority for these actions is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. In accordance with applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before September 25, 1972, and reply comments on or before October 11, 1972. Pursuant to § 1.419(b) of the Commission's rules, an original and 14 copies of all statements, brief, and comments filed shall be furnished the Commission. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. The Commission may also take into account other pertinent information before it in addition to specific comments invited by this notice. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: July 12, 1972.

Released: July 14, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-11211 Filed 7-19-72;8:53 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1602, 1611, 1617, 1621, 1622, 1623, 1624, 1625, 1626, 1628, 1630, 1631, 1632, 1641]

SELECTIVE SERVICE REGULATIONS

Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

[2] Commissioner Robert E. Lee absent; Commissioner Wiley concurring in part, dissenting in part, and issuing a statement, filed as part of the original document, in which Chairman Burch joins; Commissioner Hooks not participating.

PART 1602—DEFINITIONS

Section 1602.15 is added to read as follows:

§ 1602.15 Computation of time.

The period of days allowed a registrant or other person to perform any act or duty required of him shall be counted as beginning on the day following that on which the notice to him is posted or mailed.

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

Part 1611 is amended to read as follows:

Sec.
1611.1 Persons required to be registered.
1611.2 Persons not required to be registered.
1611.3 Change of status.
1611.4 Inmate of institution.
1611.5 Voluntary registration.

AUTHORITY: The provisions of this Part 1611 issued under the Military Selective Service Act, as amended (50 U.S. Code App., secs. 451 et seq.)

§ 1611.1 Persons required to be registered.

(a) Except as otherwise provided by the regulations in this part, it shall be the duty of the following male persons to present themselves for and submit to registration under the provisions of section 3 of the Military Selective Service Act:

(1) Each citizen of the United States who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 26th anniversary of the day of his birth;

(2) Each person, other than a citizen of the United States or an alien in a medical, dental, or allied specialist category, residing in or who hereafter enters the United States who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 26th anniversary of the day of his birth;

(3) Each alien in a medical, dental, or allied specialist category who resides in the United States or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 35th anniversary of the day of his birth; and

(4) Each alien residing in the United States who shall have attained the 18th anniversary of the day of his birth and who shall have not attained the 35th anniversary of the day of his birth who receives a degree in a medical, dental, or allied specialty.

(b) Persons required to register in accord with paragraph (a) of this section shall present themselves for and submit to registration at the times and places indicated:

(1) Citizens of the United States shall present themselves for registration

on the day they attain the 18th anniversary of the day of their birth or within a period of 60 days commencing 30 days before such date before a duly designated registration official or the local board having jurisdiction in the area in which they have their permanent home or in which they may happen to be or before a diplomatic or consular officer of the United States who is a citizen of the United States or any other person who may be designated by the Director of Selective Service as chief registrar or registrar;

(2) Persons residing in the United States other than citizens of the United States shall present themselves for registration before a duly designated registration official or Selective Service local board on the day they attain the 18th anniversary of the day of their birth or within a period of 60 days commencing 30 days before such date;

(3) Persons entering the United States other than citizens of the United States shall present themselves for registration before a duly designated registration official or Selective Service local board within the period of 6 months following the day on which they enter the United States; and

(4) Aliens who receive a degree in a medical, dental, or allied specialty and who are residing in the United States who shall have attained the 26th anniversary of the day of their birth and who shall not have attained the 35th anniversary of the day of their birth shall present themselves for registration before a duly designated registration official or Selective Service local board within 30 days following their receipt of such degree.

(c) Any person other than a person described in § 1611.4, subject to registration who, because of circumstances over which he has no control, is prevented from presenting himself for and submitting to registration on the day or any of the days fixed for registration by paragraph (b) of this section shall notify the nearest local board of his name, place of residence, and the reason he is unable to comply, and, unless his liability to register has expired, shall present himself for and submit to registration immediately upon its becoming possible for him to do so.

§ 1611.2 Persons not required to be registered.

Persons in the following categories are not required to be registered under the Military Selective Service Act:

(a) Any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States;

(b) Any person described in section 6 of the Military Selective Service Act as not being required to register;

(c) Any person who is a national of a country with which there is in effect a treaty or international agreement exempting nationals of that country from military service while they are within the United States; and

(d) Any person who is separated from the Armed Forces after having served honorably on active duty, other than active duty for training, for not less than 6 months, or who has served as a commissioned officer in the National Oceanic and Atmospheric Administration or the Public Health Service for not less than 24 months.

§ 1611.3 Change of status.

Every male person who would have been required to be registered in accord with the provisions of § 1611.1 except for the fact that he was in one of the categories described in § 1611.2 shall present himself for and submit to registration before a local board within 30 days after a change in his status removes him from such category.

§ 1611.4 Inmate of institution.

Unless he has already been registered, every person subject to registration who is an inmate of an insane asylum, jail, penitentiary, reformatory, or similar institution shall be registered on the day he leaves the institution.

§ 1611.5 Voluntary registration.

Any male person who entered the Armed Forces before being required to be registered in accord with the provisions of § 1611.1 and is separated therefrom after having served honorably on active duty, other than active duty for training, for not less than 6 months, may present himself for and submit to registration before a local board.

PART 1617—REGISTRATION CERTIFICATE

§§ 1617.1, 1617.10 and 1617.13 [Revoked]

Section 1617.1 *Effect of failure to have unaltered registration certificate in personal possession,* is revoked.

Section 1617.10 *Duty of registrant separated from active duty in armed forces,* is revoked.

Section 1617.13 *Return of registration certificate to local board,* is revoked.

PART 1621—PREPARATION FOR CLASSIFICATION

§ 1621.15 [Revoked]

Section 1621.15 *Subpena Power of Local Board,* is revoked.

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

Section 1622.2 *Classes,* is amended to read as follows:

§ 1622.2 Classes.

Each registrant shall be classified in one of the following classes:

CLASS 1

Class 1–A: Available for military service.
Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1–D: Member of reserve component or student taking military training.
Class 1–H: Registrant not currently subject to processing for induction.
Class 1–O: Conscientious objector available for alternate service.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.

CLASS 2

Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.
Class 2–C: Registrant deferred because of agricultural occupation.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a medical specialty.
Class 2–S: Registrant deferred because of activity in study.

CLASS 3

Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

CLASS 4

Class 4–A: Registrant who has completed military service.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 4–F: Registrant not qualified for military service.
Class 4–G: Registrant exempted from service during peace.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.

Paragraph (a) of § 1622.25 *Class 2–S: Registrant deferred because of activity in study,* is amended to read as follows:

§ 1622.25 Class 2–S: Registrant deferred because of activity in study.

(a) In Class 2–S shall be placed any registrant who requests such classification, who (1) was satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning during the 1970–1971 regular academic school year and who is satisfactorily pursuing such course, such classification to continue until such registrant completes the requirement for his baccalaureate degree, fails to pursue satisfactorily full-time course of instruction, or attains the 24th anniversary of the date of his birth, whichever occurs first; or (2) is satisfactorily pursuing a course of graduate study in podiatry, or in such other subjects necessary to the maintenance of the national health, safety, or interest as are identified by the Director of Selective Service upon the advice of the National Security Council.

* * * * *

Section 1622.26 is amended to read as follows:

§ 1622.26 Class 2–M: Registrant deferred because of study preparing for a medical specialty.

In Class 2–M shall be placed any registrant upon his request who is satisfactorily pursuing a full-time course of study leading to the degree of bachelor of medicine, doctor of medicine, doctor of dental

surgery, doctor of dental medicine, doctor of veterinary surgery, doctor of veterinary medicine, doctor of osteopathy, doctor of optometry; or who is satisfactorily pursuing a full-time course of study leading to licensure as a registered nurse.

Paragraph (a) of § 1622.30 *Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents* is amended to read as folows:

§ 1622.30 Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

(a) In Class 3–A shall be placed any registrant whose induction into the Armed Forces would result in extreme hardship (1) to his wife, divorced wife, child, parent, grandparent, brother, or sister who is dependent upon him for support, or (2) to a person under 18 years of age or a person of any age who is physically or mentally handicapped whose support the registrant has assumed in good faith.

* * * * *

1. Section 1622.40 is amended by revising paragraph (a) and subparagraphs (1) and (4) of paragraph (a) to read as follows:

§ 1622.40 Class 4–A: Registrant who has completed military service.

(a) In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C or Class 1–D who is within any of the following categories:

(1) A registrant who subsequent to September 16, 1940, was discharged for the convenience of the Government after having served honorably on active duty for a period of not less than 6 months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard.

* * * * *

(4) A registrant who while an alien has served on active duty subsequent to June 24, 1948, for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemption from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States subsequent to June 24, 1948, for a period of not less than 12 months: *Provided*, That in computing such 12-month period, there shall be credited any active duty performed by the registrant prior to June 24, 1948, in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities: *And provided further*, That all information which is submitted to the local board concerning the registrant's service in the armed forces of a foreign nation shall be written in English language.

* * * * *

PART 1623—CLASSIFICATION PROCEDURE

Section 1623.2 *Consideration of classes*, is amended to read as follows:

§ 1623.2 Consideration of classes.

Every registrant shall be placed in Class 1–A under the provisions of section 1622.10 of this chapter except that when grounds are established to place a registrant in any one of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest class and Class 4–A considered the lowest class, according to the following table:

Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–O: Conscientious objector available for alternate service.
Class 2–A: Registrant deferred because of civilian occupation except agriculture.
Class 2–C: Registrant deferred because of agriculture occupation.
Class 2–S: Registrant deferred because of activity in study.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a medical specialty.
Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 1–H: Registrant not currently subject to processing for induction.
Class 4–G: Registrant exempted from service during peace.
Class 4–F: Registrant not qualified for military service.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.
Class 1–D: Member of reserve component or student taking military training.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 4–A: Registrant who has completed military service.

§§ 1623.5 and 1623.6 [Revoked]

Section 1623.5 *Persons required to have Notice of Classification (SSS Form 110) in personal possession*, is revoked.

Section 1623.6 *Wrongful possession of, or making, altering, forging, or counterfeiting, Notice of Classification (SSS Form 110) prohibited*, is revoked.

Section 1623.7 is amended to read as follows:

§ 1623.7 Issuing of duplicate Notice of Classification.

A duplicate Notice of Classification (SSS Form 110) may be issued to a registrant only by the local board which mailed the original Notice of Classification (SSS Form 110) to him upon his written request therefor, accompanied by a money order for $1 payable to the Selective Service System, and the presentation of proof satisfactory to the local board that his Notice of Classification (SSS Form 110) has been lost, destroyed, mislaid, or stolen.

PART 1624—PERSONAL APPEARANCE BEFORE LOCAL BOARD

Paragraph (a) of § 1624.1 *Opportunity for personal appearance*, is amended to read as follows:

§ 1624.1 Opportunity for personal appearance.

(a) Every registrant after his classification is determined by the local board, except his initial administrative classification into Class 1–H or a classification which is determined upon an appearance before the local board under the provisions of this part, shall have an opportunity to appear in person before the local board.

* * * * *

PART 1625—REOPENING AND CONSIDERING NEW REGISTRANT'S CLASSIFICATION

§ 1625.1 [Amended]

Paragraph (b) of § 1625.1 *Classification not permanent*, is revoked.

Section 1625.14 *Cancellation of order to report for induction or for alternate service by reopening of classification*, is amended to read as follows:

§ 1625.14 Cancellation of order to report for induction or for alternate service by reopening of classification.

The reopening of the classification of a registrant by the local board shall cancel any order to report for induction or alternate service which may have been issued to the registrant, except that if the registrant has failed to comply with either of those orders, the reopening of his classification thereafter by the local board pursuant to § 1622.42(c) of this chapter for the purpose of placing him in Class 4–C or removing him from Class 4–C shall not cancel the order with which he failed to comply.

PART 1626—APPEAL TO APPEAL BOARD

Paragraph (d) of § 1626.3 *Procedure for taking an appeal*, is amended by adding the following:

§ 1626.3 Procedure for taking an appeal.

* * * * *

(d) Whenever the registrant's principal place of employment or residence is outside the United States he may request that the appeal be considered by the Appeal Board for the District of Columbia. "Principal place of employment" as used in this paragraph means the geographical location at which the registrant usually performs the duties of his employment.

* * * * *

PART 1628—EXAMINATION OF REGISTRANTS

§ 1628.10 [Revoked]

Section 1628.10 *Duty of registrant to report for and submit to Armed Forces examination*, is revoked.

PART 1630—ALLOCATION OF INDUCTIONS

Paragraph (a) of § 1630.1 *Who may volunteer,* is amended to read as follows:

§ 1630.1 Who may volunteer.

(a) Any registrant who has attained the age of 18 years and who has not attained the age of 26 years and who has not discharged his current military obligation under the Military Selective Service Act may volunteer for induction into the Armed Forces by completing and filing with his local board an Application for Voluntary Induction (SSS Form 254) which shall be completed and filed in duplicate if he has not attained the age of 18 years and 6 months.

* * * * *

PART 1631—QUOTAS AND CALLS

Paragraph (d)(7) of § 1631.6 *Action by local board upon receipt of allocation,* is amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(d) * * *

(7) A registrant in category (b) (2), (3), or (4) (paragraph (b) (2), (3), or (4) of this section) will not be inducted under those provisions after he has attained the age of 26 years.

* * * * *

PART 1632—DELIVERY AND INDUCTION

Section 1632.10 *Transfer for induction,* is amended to read as follows:

§ 1632.10 Transfer for induction.

(a) The Director of Selective Service may direct that a particular registrant or a registrant who comes within a described group of registrants be transferred for induction to such local board or local boards as he shall designate.

(b) Whenever a transfer of induction has been directed in accord with paragraph (a) of this section, such transfer will be accomplished in the manner prescribed by the Director of Selective Service.

§ 1632.14 [Revoked]

Section 1632.14 *Duty of registrant to report for and submit to induction,* is revoked.

PART 1641—DUTY OF REGISTRANTS

Part 1641 is amended to read as follows:

Sec.

AUTHORITY: The provisions of this Part 1641 issued under the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

§ 1641.1 Reporting by registrants of their current status.

(a) It shall be the duty of every classified registrant until his liability for training and service has terminated, to keep his local board currently informed in writing of: (1) The address where mail will reach him, (2) his receipt of any professional degree in a medical, dental, or allied specialist category, and (3) in accord with instructions of the Director of Selective Service, facts concerning his status that the local board requests.

(b) The registrant shall submit to his local board information concerning his status within 10 days after the date on which the local board mails him a request therefor, or within such longer period as may be fixed by the local board.

§ 1641.2 Effect of mailing a communication to the registrant.

The mailing of an order, notice, or blank form to a registrant to the address last reported by him in writing to his local board shall constitute notice to him of the contents of the communication, whether he actually receives it or not.

§ 1641.3 Waiver of right or privilege.

If a registrant fails to claim and exercise any right or privilege within the required time, he shall be deemed to have waived the right or privilege.

§ 1641.4 Duty to report for and submit to Armed Forces examination.

(a) When the local board mails to a registrant an Order to Report for Armed Forces Examination (SSS Form 223), it shall be the duty of the registrant to report for such examination at the time and place fixed in such order unless, after the date the Order to Report for Armed Forces Examination (SSS Form 223) is mailed and prior to the time fixed therein for the registrant to report for his Armed Forces examination, the local board cancels such Order to Report for Armed Forces Examination (SSS Form 223) or postpones that time when such registrant shall so report and advises the registrant in writing of such cancellation or postponement.

(b) If the time when the registrant is ordered to report for Armed Forces examination is postponed, it shall be the duty of the registrant to report for Armed Forces examination upon the termination of such postponement and he shall report for Armed Forces examination at such time and place as may be fixed by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for Armed Forces examination when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for Armed Forces examination to his local board and to each local board whose area he enters or in whose area he remains.

(c) Upon reporting for Armed Forces examination, it shall be the duty of the registrant (1) to follow the instructions of a member, executive secretary, or local board clerk as to the manner in which he will be transported to the location where his Armed Forces examination will take place, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for Armed Forces examination, (3) to appear at the place where such examination will be accomplished, (4) to obey the orders of the representatives of the Armed Forces while at the place where his examination will be accomplished, (5) to submit to examination, and (6) to follow the instructions of a member, executive secretary, or clerk of the local board as to the manner in which he will be transported on his return trip from the place where his Armed Forces examination takes place.

§ 1641.5 Duty to report for and submit to induction.

(a) When the local board orders the registrant for induction it shall be the duty of the registrant to report for induction at the time and place ordered by the local board. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for induction at such time and place as may be ordered by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for induction to his local board.

(b) Upon reporting for induction, it shall be the duty of the registrant (1) to follow the instructions of a member or clerk of the local board as to the manner in which he shall be transported to the location where his induction will be accomplished, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for induction, (3) to appear at the place where his induction will be accomplished, (4) to obey the orders of the representatives of the Armed Forces while at the place where his induction will be accomplished, (5) to submit to induction, and (6) if he is found not qualified for induction, to follow the instructions of the representatives of the Armed Forces as to the manner in which he will be transported on his return trip to the local board.

§ 1641.6 Duty to have unaltered Registration Certificate in personal possession.

It is the duty of every registrant to have in his personal possession until his liability for training and service has terminated his Registration Certificate (SSS Form 2) which has not been altered after its preparation by the local board. The failure of any person to have

his Registration Certificate (SSS Form 2) in his personal possession shall be prima facie evidence of his failure to register. When a registrant is inducted into the Armed Forces, or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Registration Certificate (SSS Form 2) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the certificate to the local board that issued it.

§ 1641.7 Duty of registrant separated from active duty in Armed Forces.

Every registrant who is separated from active duty in the Armed Forces prior to the 26th anniversary of the date of his birth, who has not discharged his current military obligation under the Military Selective Service Act, and who does not have a Registration Certificate (SSS Form 2) shall, within 10 days after the date of his separation, request his local board to return his Registration Certificate (SSS Form 2) if available or to issue to him a duplicate Registration Certificate (SSS Form 2). The registrant shall make this request by a letter mailed to his local board or on a Request for Duplicate Registration Certificate or Notice of Classification (SSS Form 6) which he shall file with his own or any other local board.

§ 1641.8 Duty to return Registration Certificate to local board.

Whenever a registrant at the time he receives a duplicate Registration Certificate (SSS Form 2) from his local board has in his possession any such certificate previously issued to him by the local board or thereafter finds or regains possession of any such certificate previously issued to him, it shall be the duty of the registrant to immediately return to the local board the certificate previously issued to him upon his receipt of the duplicate certificate or upon his thereafter finding or regaining possession of such certificate previously issued to him.

§ 1641.9 Duty to have Notice of Classification (SSS Form 110) in personal possession.

It is the duty of every registrant to have in his personal possession until his liability for training and service has terminated a valid Notice of Classification (SSS Form 110) issued to him showing his current classification. When any registrant is inducted into the Armed Forces or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Notice of Classification (SSS Form 110) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the notice to the local board that issued it.

BYRON V. PEPITONE,
Acting Director.

JULY 10, 1972.

[FR Doc.72-11200 Filed 7-19-72;8:51 am]

[32 CFR Parts 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1617]

SELECTIVE SERVICE REGULATIONS

Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.), and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

PART 1604—SELECTIVE SERVICE OFFICERS

Section 1604.25 is amended to read as follows:

§ 1604.25 Disqualification.

No appeal board shall act on the case of a registrant who is a member or the first cousin or closer relation, either by blood, marriage, or adoption, or who is an employer, employee, or fellow employee, or stands in the relationship of superior or subordinate in connection with any employment, or is a partner or close business associate of a member or employee of the appeal board. If because of such provision, or for any other reason, an appeal board cannot act on the case of a registrant, and there is no panel of the appeal board to which the case may be transferred, the appeal board shall transmit such case to the State Director of Selective Service for transfer to another appeal board.

Section 1604.26 is amended to read as follows:

§ 1604.26 Organization and meeting.

Each appeal board or panel shall elect a chairman and a secretary. A majority of the members of an appeal board or panel when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the board, the chairman, a member, or employee of the board or panel concerned shall recommend to the State Director of Selective Service that such member be removed and a new member appointed.

Section 1604.55 is amended to read as follows:

§ 1604.55 Disqualification.

No local board shall act on the case of a registrant who is a member or the first cousin or closer relation, either by blood, marriage, or adoption, or who is a fellow employee or employer, or stands in the relation of superior or subordinate in connection with any employment, or is a partner or close business associate of a member or employee of the board. If because of this provision a local board cannot act on the case of a registrant, the local board shall request the State Director of Selective Service to designate another local board to which the registrant shall be transferred for action on his case.

Section 1604.56 is amended to read as follows:

§ 1604.56 Organization and meetings.

Each local board shall elect a chairman and a secretary. A majority of the membership of the local board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the local board, the chairman, a member, or employee of the local board shall recommend to the State Director of Selective Service that such member be removed and a new member appointed.

Section 1604.81 is amended to read as follows:

§ 1604.81 Interpreters.

(a) The local board is authorized to use interpreters when necessary. An appeal board and the National Selective Service Appeal Board are authorized to use interpreters during the personal appearance of a registrant.

(b) The following oath shall be administered to an interpreter each time he is used:

You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God.

PARTS 1605, 1606, 1607 [REVOKED]

Part 1605 Compensated Civilian Employees, is revoked.

Part 1606 General Administration, is revoked.

Part 1607 Finance Administration, is revoked.

PART 1608—PUBLIC INFORMATION

Paragraph (f) (2) and (3) of § 1608.12, is amended to read as follows:

§ 1608.12 Available information.

* * * * *

(f) * * *

(2) The names of local board members and the names and addresses of advisors to registrants will be posted in an area available to the public at each board office to which such personnel are assigned.

(3) Personal data concerning board members that relate to their legal qualifications for appointment and/or continuation in office are a matter of official record. Upon request, the executive secretary or clerk of a local board or appeal board will verify that a member of that board was legally qualified for appointment and for continuation in office without disclosing the personal data pertaining to such member without the member's consent.

PART 1609—CLAIMS

The title of Part 1609 is amended to read as set forth above.

§§ 1609.1, 1609.2, 1609–11, 1609.12, 1609.21, 1609.22, 1609.31, 1609.41, 1609.42, 1609.43, 1609.44, 1609.45 [Revoked]

Section 1609.1 Procurement is revoked.

Section 1609.2 Requisition, is revoked.

Section 1609.11 Lease of offices, is revoked.

Section 1609.12 Alterations, improvements and repairs, is revoked.

Section 1609.21 Telephone; authorization, is revoked.

Section 1609.22 Certification of bills, is revoked.

Section 1609.31 Invoices and other claims, is revoked.

Section 1609.41 Travel; authorization, is revoked.

Section 1609.42 Travel and subsistence expenses, is revoked.

Section 1609.43 Special provisions concerning travel and subsistence expenses, is revoked.

Section 1609.44 Government requests for transportation, is revoked.

Section 1609.45 Government requests for meals or lodgings for civilian registrants, is revoked.

PART 1610 [REVOKED]

Part 1610 Property accountability, is revoked.

PART 1617—REGISTRATION CERTIFICATE

Section 1617.11 *Issuing of duplicate registration certificate,* is amended to read as follows:

§ 1617.11 Issuing of duplicate Registration Certificate.

(a) A duplicate registration certificate (SSS Form 2) shall be issued to a registrant by the local board with which he is registered upon receipt of his request therefor made by letter or on a request for duplicate registration certificate or notice of classification (SSS Form 6) accompanied, except as provided in paragraph (b) of this section, by a money order for $1 payable to the Selective Service System, and the presentation of satisfactory proof to the local board that the registration certificate (SSS Form 2) of the registrant has been lost, destroyed, mislaid, or stolen.

(b) No charge will be made for the issuance of a duplicate registration certificate (SSS Form 2) to a registrant who requested it within 30 days after the date of his separation from active duty in the Armed Forces.

BYRON V. PEPITONE,
Acting Director.

JULY 10, 1972.

[FR Doc.72–11201 Filed 7–19–72;8:51 am]

Notices

DEPARTMENT OF STATE

[Notice 361]

THE FOREIGN ASSISTANCE ACT

Notice of Presidential Determination

Pursuant to section 654(c) of the Foreign Assistance Act of 1961, as amended (86 Stat. 29), notice is hereby given that:

(1) On June 7, 1972, the President made a determination pursuant to section 614(a) of the Foreign Assistance Act of 1961, as amended (75 Stat. 444, 22 U.S.C. 2364(a)); and

(2) The President has concluded that publication of the said determination in the FEDERAL REGISTER would be harmful to the national security of the United States.

Date: July 10, 1972.

ROBERT H. MILLER,
Acting Executive Secretary.

[FR Doc.72-11184 Filed 7-19-72;8:51 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Cost of Living Council Ruling 1972-76]

WHETHER A COMPANY WHICH ENGAGES IN REPAINTING AND OTHER GENERAL MAINTENANCE WORK IS ENGAGED IN CONSTRUCTION

Cost of Living Council Ruling

Facts. Company X is a nonunion firm engaged in repainting, in plumbing repairs and in other general maintenance work. It does no remodeling work and does not engage in new construction.

Issue. For purposes of the Economic Stabilization Regulations, 6 CFR 101.51 (a) (2) (iii) (1972), relating to the small business exemption, is Company X engaged in construction?

Ruling. Yes. Section 101.51(a) (2) (iii) provides that the term "construction" shall have the same meaning as in section 11 of Exec. Order No. 11588 (3 CFR, 1971 Comp., 147). Section 11 of that executive order provides in part that the term "construction" means all work relating to the erecting, constructing, altering, remodeling, painting, or decorating of installations such as buildings, bridges, highways and the like, when performed on a contract basis, but shall not include maintenance work performed by workers employed on a permanent basis in a particular plant or facility for the purpose of keeping such plant or facility in efficient operating condition. Therefore, since Company X is engaged in the business of contract painting regardless of whether such business is limited to the repainting of structures, it is engaged in construction for purposes of § 101.51(a) (2) (iii).

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: July 17, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11194 Filed 7-19-72;8:46 am]

[Cost of Living Council Ruling 1972-79]

SMALL BUSINESS EXEMPTION FOR CONSULTING ENGINEERING FIRMS

Cost of Living Council Ruling

Facts. A consulting engineering firm has an average of less than 60 employees as determined under § 101.51(a) (3) of the Economic Stabilization Regulations. The firm is engaged in the design and preparation of plans and specifications for mechanical, electrical, and structural systems for installations such as buildings, bridges, highways, and the like. During construction the firm frequently inspects and observes the work of the construction contractor to insure that the plans and specifications are properly followed.

Issue. Is the consulting engineering firm excepted from the small business exemption as a firm engaged in construction under Economic Stabilization Regulations, 6 CFR 101.51(a) (2) (iii), 37 F.R. 8939 (1972)?

Ruling. No. Firms with 60 or fewer employees are generally exempted from wage and price controls under § 101.51. However, this small business exemption does not apply to firms engaged in construction under § 101.51(a) (2) (iii). Construction, for purposes of § 101.51(a) (2) (iii), is defined by section 11 of Executive Order No. 11588, 3 CFR, 1971 Comp., 36 F.R. 6339 (April 3, 1971). Construction as defined in section 11 refers to the physical acts involved in the building, repairing, or remodeling of a facility. A consulting engineering firm provides professional services incident to, but distinct from, the physical construction. Construction as defined in section 11 does not include the design and preparation of plans and specifications or onsite inspections to insure that the plans and specifications are being followed.

Therefore, the consulting engineering firm is not a firm engaged in construction under § 101.51(a) (2) (iii). The firm is eligible for the small business exemption from wage and price controls if the requirements of the other provisions of § 101.51 are met.

This ruling has been approved by the General Counsel of the Cost of Living Council.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 12, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11192 Filed 7-19-72;8:46 am]

[Cost of Living Council Ruling 1972-80]

CONTRACT PRICE FOR BUILDING

Cost of Living Council Ruling

Facts. X owns one lot of real property and engages Y, a construction contractor, to erect an office building on that property. The contract for construction of the building specifies that the sales price of the building would be determined after completion of construction. The materials used in the construction are to be owned by Y until consumation of the sale. The law in the jurisdiction where the building is to be built defines real property so as to include permanent structures affixed to the land. Because of these facts, Y expects to price his performance of the construction contract on the basis that the sale is exempt from the coverage of the economic controls under Economic Stabilization Regulations, 6 CFR 101.33(a) (1) (iii) (*a*) (1972).

Issue. Is a transaction involving the construction of a building on land owned by the buyer a sale of real estate which is exempt from the coverage of the economic controls?

Ruling. No. A building sold separately from the land on which it is situated or the sale of services to erect a building does not come within the exemption provided in the regulations.

Section 101.33(a) (1) (iii) (*a*) provides an exemption for the sale of, "Real Estate with improvements completed on or after August 15, 1971, if the sales price is determined after the completion of construction * * *" "Real Estate with improvements" is defined in 6 CFR 101.2 (1972) as "Land upon which there is a structure, dwelling, or other building."

The definition of "Real Estate with improvements" makes it clear that, regardless of local law as to real property, for purposes of the Economic Stabilization Program real estate means land. A building built on that land is an improvement. In this case, Y is not selling "real estate with improvements." He is selling either the improvement or, depending upon local law, his services in providing the

improvement. Title to the land on which the improvement is to be constructed has always rested in the owner, X, so there can be no sale of real estate to him by Y. The sale by Y is therefore not exempt from the coverage of the economic controls.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: July 13, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 13, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11193 Filed 7-19-72;8:46 am]

[Cost of Living Council Ruling 1972-83]

RAW SEAFOOD PRODUCTS EXEMPTION

Cost of Living Council Ruling

Facts. Fisherman is in the business of catching fish and selling them to customers upon his return to port. In the past the fish had been kept on ice until delivery was made. Recently it was found that by keeping the fish in subfreezing brine solution prior to delivery, spoilage would be reduced. This method was adopted for the convenience of the fisherman. Upon returning to port, the fish are either thawed or kept in the brine solution, according to the customer's order.

Issue. Are fisherman's sales of fish in the thawed state and in freezing brine solution exempt from price control under 6 CFR 101.32(b) (1972)?

Ruling. Yes. The initial sale of fish in either state by fisherman is exempt from price control. Section 101.32(b) provides an exemption for "raw seafood products including those which have been shelled, shucked, iced, skinned, scaled, eviscerated, or decapitated." While fish in the brine solution do become frozen, the exemption for iced products applies since the process is not a final freezing process. That the freezing is done for the convenience of the fisherman, and that the fish must be thawed before any processing can be done are factors which indicate that the fish are iced seafood products rather than frozen. The exemption applies to any method by which fish are "iced" by the fisherman for the purpose of preserving the catch until the fisherman returns to port.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: July 18, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11255 Filed 7-18-72;11:34 am]

[Pay Board Ruling 1972-58]

"PUBLIC" PLANS

Pay Board Ruling

Facts. State X has administered an employees' retirement plan for state employees since 1967. The plan requires contributions to be paid in equal parts to the retirement fund by the state and its employees.

Issue. Is a state employees' retirement plan a "public" plan under Economic Stabilization Regulations, 6 CFR 201.3 (1972), and therefore, excluded from the definition of wages and salaries?

Ruling. No. The definition of "wages and salaries" under § 201.3 includes employer contributions for insurance plans. However, that section specifically excludes from "wages and salaries" employer contributions pursuant to "public plans, e.g., old-age, survivors, health and disability insurance under the Social Security system, Railroad Retirement Acts, Federal Insurance Contributions Acts, Federal Unemployment Tax Acts and Civil Service Retirement Acts." It is clear from the examples given that a "public" plan under § 201.3 refers only to a Federal public plan or a State plan which has general application to virtually all employees within the State. This conclusion is supported by Economic Stabilization Regulations, 6 CFR 201.57(d) (1972), which excludes, for purposes of determining pay adjustments, employer contributions for—

(1) Any Federal public plans (e.g., Social Security, Railroad Retirement Act, Federal Insurance Contributions Act, Federal Unemployment Tax Act); or

(2) Any workman's compensation or unemployment insurance plan pursuant to State Law whether the participation of the employer is optional or obligatory.

Accordingly, employer contributions made to a State retirement plan are not excluded from the definition of "wages and salaries." However, if the plan is a qualified benefit plan which meets the requirements of sections 401(a), 403(b), or 404((a)(2) of the Int. Rev. Code of 1954, a portion of an increased contribution may be excluded from adjustment computations under Economic Stabilization Regulations, 6 CFR 201.57(g), 201.58 (1972).

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 11, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11188 Filed 7-19-72;8:46 am]

[Pay Board Ruling 1972-59]

CONTROL YEAR

Pay Board Ruling

Facts. The assembly line employees of Company A, who were not under contract at the time, received a 5.5 percent general wage and salary increase on December 10, 1971. On January 15, 1972, these employees voted to join a national union. At the same time, Company A joined an employer's association to bargain collectively with the union. In a collective bargaining agreement dated April 15, 1972, the association agreed to grant a 5.5-percent wage and salary increase effective May 1, 1972, to all employees of Association members represented by the national union.

Issue. Having already granted the assembly line employees a 5.5-percent increase, may Company A now grant another 5.5-percent increase to the employees pursuant to the collective bargaining agreement?

Ruling. No. Economic Stabilization Regulations, 6 CFR 201.53(b)(1) (1972), provide that the first control year for an appropriate employee unit which was not covered by the terms of an employment contract in effect on November 13, 1971, will be "the period from November 14, 1971 through November 13, 1972". Moreover, § 201.53(d)(1) states that "The base date for the first and succeeding control years * * * shall not thereafter be changed even though the appropriate employee unit goes from a pay practice status to an employment contract status * * * after November 13, 1971".

Finally, Economic Stabilization Regulations, 6 CFR 201.51(c) (1972), impose a limitation on compensation increases with respect to an appropriate employee unit for any control year. Such limitation is the maximum permissible annual aggregate wage and salary increase pursuant to Economic Stabilization Regulations, 6 CFR 201.10, 201.11 (1972).

The control year for these employees cannot change. Moreover, they have already received an increase equivalent to the general wage and salary standard. Accordingly, no further increase for these employees may be granted until the second control year beginning November 14, 1972, unless payments to such employees qualify for an exception under § 201.11.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: July 11, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 11, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasurer.

[FR Doc.72-11189 Filed 7-19-72;8:46 am]

[Pay Board Ruling 1972-60]

RETROACTIVE WAGE INCREASE, BASED UPON PRICE INCREASE

Pay Board Ruling

Facts. On August 1, 1971, Company A, a mail-order company that solicits customers by the use of mail-order catalogues, decided to raise its employees wages and salaries by a definite amount as of September 1, 1971. However, Company A did not communicate this decision to its employees at that time, but

printed new catalogues to reflect increased prices and arranged to mail the catalogues to its customers on August 16, 1971. The freeze period of the Economic Stabilization Program precluded both the mailing of the new catalogues reflecting the increased prices and the payment of scheduled wage increases. The new catalogues were finally sent out after November 13, 1971, at the conclusion of the freeze period, when the price increases had been approved by the Price Commission. Company A desires to pay the increase in wages and salaries of its employees, retroactive to September 1, 1971.

Issue. May the retroactive wage and salary increase be paid either pursuant to the Economic Stabilization Regulations, 6 CFR 201.13(d) (1972) or 6 CFR 201.15 (1972)?

Ruling. No. Section 201.13(d) permits the payment of retroactive wage and salary increases if the employer "raised the prices for his products or services prior to August 16, 1971, in anticipation of wage and salary increases scheduled to be paid to such employees after August 15, 1971." Section 201.15 provides that retroactive wage and salary increases "are lawfully due and payable, if a determination is made * * * that such increases were provided for by * * * established practice prior to August 15, 1971, and that prices have been advanced, * * * to cover such increases."

The enactment of section 203(c)(3) of the Economic Stabilization Act Amendments of 1971 (Public Law 92-210, 85 Stat. 743), did not alter the requirement that prices must have been increased prior to August 16, 1971, in anticipation of wage and salary increases scheduled to take effect after August 15, 1971. Company A did not actually raise the prices for its goods and services until after November 13, 1971, following approval of the proposed increase by the Price Commission. Before the determination that prices were raised prior to August 15, 1971 can be made, the necessary element of communication to the public of such price increases must have taken place. Company A's method of notifying the public of price increases is by use of mail-order catalogs. Since the catalogs were not sent out until long after August 15, 1971, notice of such price increases prior to that date did not take place. As a result, the proposed retroactive wage increase cannot qualify for permissible payment under § 201.13(d), nor as being lawfully due and payable under § 201.15.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: July 11, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 11, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11190 Filed 7-19-72;8:46 am]

[Pay Board Ruling 1972-61]

EFFECT OF REOPENING OF AN EXISTING CONTRACT PURSUANT TO A RENEGOTIATION CLAUSE

Pay Board Ruling

Facts. A city school district, *X*, and a teachers association, *Y*, entered into a collective bargaining agreement on July 20, 1971. As the parties have contracted in past years, the agreement runs for the current school year from September 1, 1971, through August 31, 1972, and provides for a 7¼ percent increase in teacher pay, effective January 1, 1972. However, the contract also contained a clause providing that *X* and *Y* could renegotiate the amount of teacher pay increases in the event that additional funds over and above a specified amount were made available to *X* during the contract year to pay such salaries. The additional funds for teachers' pay were made available to *X* after November 13, 1971.

Issue. Pursuant to the renegotiation clause of the contract in existence on November 13, 1971, may *X* pay its teachers an increase in excess of 7¼ percent on or after January 1, 1972?

Ruling. No. Pursuant to Economic Stabilization Regulations, 6 CFR 201.14(a) (1972), the 7¼-percent increase will be allowed to operate according to the terms of the contract unless challenged by a party at interest or by two or more members of the Pay Board. However, Economic Stabilization Regulations, 6 CFR 201.10 (1972), provide that the general wage and salary standard shall apply to any wage and salary increase payable with respect to an appropriate employee unit pursuant to an employment contract entered into or modified on or after November 14, 1971. If the renegotiation clause is used to effect a pay increase over and above that provided in the contract existing on November 13, 1971, the modification is treated under § 201.10 as if it were a new contract, thereby subject to the general wage and salary standard.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: July 17, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: July 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-11191 Filed 7-19-72;8:46 am]

Office of the Secretary

[T.D.O. No. 208 (Rev. 1)]

ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS ET AL.

Delegation of Authority Regarding Procurement

1. Pursuant to the authority vested in the Secretary of the Treasury by title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, 393), as amended (41 U.S.C. Chap. 4) and by the Reorganization Plan No. 26 of 1950, and pursuant to the authority vested in me as Assistant Secretary for Administration by Treasury Department Order No. 190, Revision 7, 34 F.R. 15846, authority is hereby delegated to the following officials of the Department of the Treasury to utilize the provisions of title III of the Federal Property and Administrative Services Act of 1949, as amended, when procuring property and services, except as precluded by Section 307 of the Act:

In the Office of the Secretary of the Treasury:
Assistant Secretary for International Affairs.
Director, Office of Administrative Programs.
Director, Office of Central Services.

The following heads of bureaus:
Commissioner of Accounts.
Director, Bureau of Alcohol, Tobacco and Firearms.
Comptroller of the Currency.
Director, Consolidated Federal Law Enforcement Training Center.
Commissioner of Customs.
Director, Bureau of Engraving and Printing.
Commissioner of Internal Revenue.
Director of the Mint.
Commissioner of the Public Debt.
Treasurer of the United States.
National Director, U.S. Savings Bonds Division.
Director, U.S. Secret Service.

2. This authority shall be exercised in accordance with the applicable limitations and requirements of the Act, particularly sections 304 and 307; the Federal Procurement Regulations, 41 CFR Ch. 1; the applicable portions of the Federal Property Management Regulations, 41 CFR Ch. 101; as well as regulations issued by the Department of the Treasury which implement and supplement the Federal Procurement Regulations and the Federal Property Management Regulations, including but not limited to 41 CFR Ch. 10 and Treasury Administrative Circular No. 153.

3. To the extent permitted by the Act, the authority herein delegated to the above-named officials may be redelegated by them to any subordinate officer or employee by letter or bureau delegation order; provided however, that only the above-named officials shall be deemed to be the "chief officers responsible for procurement" as defined in section 307(b) of the Act; officials authorized to serve as contracting officers shall be so designated by the issuance of Treasury Form 4014, Certificate of Appointment as Contracting Officer for the United States of America.

4. Treasury Department Order No. 208, dated March 31, 1966, is hereby rescinded.

Dated: July 17, 1972.

[SEAL] WARREN F. BRECHT,
Assistant Secretary
for Administration.

[FR Doc.72-11216 Filed 7-19-72;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 6264]

ARIZONA

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Reclamation, U.S. Department of the Interior, has filed an application, Serial No. A 6264, for the withdrawal of the lands described below, from all forms of entry or disposition, including the mining but not the mineral leasing laws, subject to existing valid claims.

The Bureau of Reclamation desires the lands to be used in connection with the Buttes Dam and Reservoir, which are a part of the central Arizona project. These lands are patented lands which are being offered to the United States in connection with a private exchange; and are to be accepted as full and fair exchange for other Federal lands.

For a period of 30 days from date of publication in FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Ariz. 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party.

The lands involved in the application are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZ.

T. 4 S., R. 13 E.,
Sec. 10, NW¼NE¼.

The area described contains 40 acres in Pinal County, Ariz.

Dated: July 12, 1972.

JOE T. FALLINI,
State Director.

[FR Doc.72-11153 Filed 7-19-72;8:47 am]

[Colorado 16268]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

JULY 14, 1972.

The Bureau of Land Management of the Department of the Interior has filed an application for the withdrawal of the public lands and reserved minerals in the patented lands as described below from those forms of appropriation as specified.

The applicant desires the lands for protection of the scenic and geologic features and future development and management of the area primarily for public recreational uses.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The application is for the withdrawal, subject to valid existing rights, of:

A. The following described public lands from all forms of appropriation under the public land laws, including the general mining laws but not the mineral leasing laws:

SIXTH PRINCIPAL MERIDIAN, COLO.

T. 15 S., R. 93 W.,
Sec. 6, lots 8, 9, and 10;
Sec. 7, lots 6 through 18, inclusive;
Sec. 18, lots 1 through 6, inclusive, E½, E½W½;
Sec. 19, lots 1, 2, 3, 4, NE¼, E½W½, SW¼SE¼ (all);
Sec. 20, S½NE¼, SW¼SW¼, E½SW¼, SE¼;
Sec. 21, SE¼NE¼, W½NE¼, W½, SE¼;
Sec. 22, SW¼, SW¼SE¼;
Sec. 30, lots 1, 2, 3, 4, E½, E½W½;
Sec. 31, lots 1 through 5, inclusive (all), NE¼, E½NW¼, SE¼SW¼;
Sec. 32, SW¼NW¼, NW¼SW¼, SE¼SW¼, S½NE¼SW¼, S½SE¼, S½N½SE¼.

T. 15 S., R. 94 W.,
Sec. 1, lots 22, 23, 24, 28, 29, and 33;
Sec. 12, lots 4, 11, 17, and 18;
Sec. 13, lots 1, 2, NE¼, SW¼SW¼, W½SE¼;
Sec. 23, NE¼, S½;
Sec. 24, lots 1, 2, 3, 4, W½E½, W½ (all);
Sec. 25, lots 1, 2, 3, 4, W½E½, W½ (all);
Sec. 26, all;
Sec. 35, all;
Sec. 36, lots 1, 2, 3, 4, W½E½, W½ (all).

NEW MEXICO PRINCIPAL MERIDIAN, COLO.

T. 50 N., R. 8 W.,
Sec. 6, lots 1 through 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼ (all);
Sec. 7, lots 1, 2, 3, 4, E½, E½W½ (all);
Sec. 18, lots 1, 2, 3, 4, E½, E½W½ (all).

T. 51 N., R. 8 W.,
Sec. 7, lots 2, 3, and 4;
Sec. 18, lots 1, 2, 3, 4, E½, E½W½ (all);
Sec. 19, lots 1, 2, 4, NE¼, E½NW¼, SE¼SW¼, SW¼SE¼;
Sec. 20, NE¼NE¼, NW¼, S½SW¼;
Sec. 21, NW¼NE¼, N½NW¼;
Sec. 29, NE¼NE¼, W½E½, W½;
Sec. 30, lots 1, 2, 3, 4, E½, E½W½ (all);
Sec. 31, lots 1, 2, 3, 4, W½NE¼, E½W½, SE¼.

T. 50 N., R. 9 W.,
Sec. 1, lots 1, 2, 3, 4, S½N½, S½ (all);
Sec. 2, lots 1, 2, 3, 4, S½N½, S½ (all);
Sec. 3, lots 1, 2, 3, 4, S½N½, S½ (all);
Sec. 11 (all);
Sec. 12, E½, NW¼, N½SW¼, SW¼SW¼.

T. 51 N., R. 9 W.,
Sec. 10, lots 1, 2, 3, and 4;
Sec. 11, lots 1, 2, 3, and 4;
Sec. 12, lot 4;
Sec. 13, E½, S½SW¼;
Sec. 14 (all);
Sec. 15 (all);
Sec. 22 (all);
Sec. 23, N½, SW¼, NW¼SE¼;
Sec. 24, SE¼NE¼, SE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 25 (all);
Sec. 26, S½NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 27 (all);
Sec. 34 (all);
Sec. 35 (all);
Sec. 36 (all).

The areas described aggregate approximately 23,881.88 acres.

B. All reserved minerals in the following described patented lands from prospecting, location and entry under the general mining laws only:

SIXTH PRINCIPAL MERIDIAN, COLO.

T. 15 S., R. 93 W.,
Sec. 31, NE¼SW¼, SE¼;
Sec. 32, SW¼SW¼.

NEW MEXICO PRINCIPAL MERIDIAN, COLO.

T. 51 N., R. 9 W.,
Sec. 12, lots 1, 2, and 3;
Sec. 13, NW¼, N½SW¼;
Sec. 23, SW¼SE¼, E½SE¼;
Sec. 24, NE¼NE¼, W½NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 26, N½NE¼, NE¼NW¼.

The areas described aggregate approximately 1,279.30 acres.

J. ELLIOTT HALL,
Chief,
Division of Technical Services.

[FR Doc.72-11183 Filed 7-19-72;8:50 am]

Office of the Secretary

[FES 72-21]

PROPOSED INSTALLATION AND OPERATION OF A SKID-MOUNTED DESALTING UNIT AND INJECTION WELL IN THE IMPERIAL VALLEY, CALIF.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed installation and operation of a skid-mounted desalting unit in the Imperial Valley, Calif.

The environmental statement considers the construction of a desalting test facility at a geothermal test well in the Imperial Valley, Calif., the drilling of a deep brine injection well and the operation of the test facility for desalting the geothermal brine and the injection well for disposal of waste brine. The purposes of the tests would be to obtain information on the behavior of geothermal brine in a desalting system, on the production

of geothermal brines and on the disposal of waste brine from a geothermal desalting system.

Copies are available for inspection at the following location:

Office of Saline Water, Room 5346, Department of the Interior, Washington, D.C. 20240, telephone (202) 343-3503.

Dated: July 10, 1972.

WILLIAM W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-11182 Filed 7-19-72;8:51 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

TEXAS CANE SUGAR PRODUCING AREA

Notice of Hearing on Proportionate Shares for 1973 Crop

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended, will conduct a public hearing to receive the views and recommendations of interested persons on the need for establishing proportionate shares for the 1973 sugarcane crop in the Texas Cane Sugar Producing Area. The hearing will be conducted in Room 4711, South Building, U.S. Department of Agriculture, Washington, D.C., beginning at 10 a.m. on July 28, 1972.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended, the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in the area will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

2—Notice of Hearing—Texas Cane Sugar Area—Proportionate Shares—1973 Crop

Views and recommendations are desired on (a) the need for establishing proportionate shares and, (b) if acreage restrictions are recommended, on all phases of a proportionate share program. Recommendations may be presented orally at the hearing, preferably supported in writing by an original and two copies of the oral statement. Views and recommendations may also be submitted in writing, in triplicate, at the hearing or may be mailed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, postmarked not later than August 25, 1972.

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

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

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

[FR Doc.72-11207 Filed 7-19-72;8:53 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF 125,000 CUBIC METER LIQUEFIED NATURAL GAS (LNG) VESSELS

Notice of Intent Regarding Recomputation of Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, to recompute the estimated foreign cost of the construction of 125,000 cubic meter liquefied natural gas (LNG) vessels to determine whether there has been a significant change in shipbuilding market conditions since the previous determination of estimated foreign cost was made.

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on August 4, 1972, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Dated: July 18, 1972.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.

[FR Doc.72-11303 Filed 7-19-72;9:37 am]

Office of the Secretary

[Dept. Organization Order 10-8, Amdt. 4]

ASSISTANT SECRETARY FOR MARITIME AFFAIRS ET AL.

Status and Line of Authority

This order effective June 13, 1972, further amends the material appearing at 36 F.R. 1223 of January 26, 1971, 36 F.R. 5921 of March 31, 1971, 36 F.R. 16701 of August 25, 1971, and 37 F.R. 12249 of June 21, 1972.

Department Organization Order 10-8, effective October 21, 1970, is hereby further amended as follows:

SEC. 2. *Status and line of authority.* Paragraph .03 is amended to read:

.03 The Assistant Secretary for Maritime Affairs shall be principally assisted by the following officials who shall have the responsibilities herein indicated.

a. The Deputy Assistant Secretary for Maritime Affairs (ex-officio Deputy Maritime Administrator) shall perform such duties as the Assistant Secretary shall assign. In addition, he shall assume the duties of the Assistant Secretary in his absence or during a vacancy in the office, unless the Secretary shall designate another person.

b. The Deputy Assistant Secretary for International Planning shall perform such duties as the Assistant Secretary shall prescribe in providing executive direction and coordination of activities related to international policy and planning, with emphasis on maritime aspects.

Effective date: June 13, 1972.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.72-11158 Filed 7-19-72;8:48 am]

[Dept. Organization Order 25-5B, Amdt. 1]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

This order effective June 12, 1972, amends the material appearing at 37 F.R. 6411 of March 19, 1972.

Department Organization Order 25-5B, effective March 10, 1972, is hereby amended as follows:

1. SEC. 12. *National Ocean Survey.* In the sixth line of paragraph .07b, delete the word "Data" and replace it with the word "Instrumentation."

2. SEC. 14. *Environmental Data Service.* Delete paragraph .06 and revise paragraph .05 to read as follows:

.05 The National Geophysical and Solar-Terrestrial Data Center shall acquire, process, archive, evaluate and disseminate solid earth and marine geophysical data and ionospheric, solar, and other space environment data; develop analytical, climatological and descriptive products to meet user requirements; and provide facilities for World Data Center-A (Geomagnetism, Gravity, Seismology and Solar-Terrestrial Physics).

3. The organization chart of March 10, 1972, attached as Exhibit 1 to Department Organization Order 25-5B, is superseded by the organization chart attached to this amendment. (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

Effective date: June 12, 1972.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.72-11159 Filed 7-19-72;8:48 am]

[Dept. Organizational Order 30-2A]

NATIONAL BUREAU OF STANDARDS

Organization and Functions

This order effective June 19, 1972, supersedes the material appearing at 33 F.R. 15564 of October 19, 1968, and 34 F.R. 222 of January 7, 1969.

SECTION 1. *Purpose.* This order delegates authority to the Director of the National Bureau of Standards, and prescribes the functions of the National Bureau of Standards.

SEC. 2. *Status and line of authority.* .01 The National Bureau of Standards, established by Act of March 3, 1901 (31 Stat. 1449 15 U.S.C. 271) is continued as a primary operating unit of the Department of Commerce.

0.2 The Director, who is appointed by the President by and with the advice and consent of the Senate, shall be the head of the Bureau. The Director shall report and be responsible to the Assistant Secretary for Science and Technology.

0.3 The Director shall be assisted by a Deputy Director, who shall be the principal assistant to the Director and shall perform the functions of the Director during the latter's absence or disability. He shall also serve as Acting Director whenever the position of Director is vacant, unless and until the Secretary shall make a further designation. In the absence of both the Director and Deputy Director, an employee of the Bureau designated in writing by the Director shall act as Director.

SEC. 3. *Delegation of authority.* .01 Pursuant to authority vested in the Secretary of Commerce by law (including Reorganization Plans No. 3 of 1946, No. 5 of 1950, and No. 2 of 1965), and subject to such policies and directives as the Secretary of Commerce or the Assistant Secretary for Science and Technology may prescribe, the Director is hereby delegated the authority to perform the functions vested in the Secretary of Commerce by the following Chapters of Title 15, United States Code:

a. Chapter 6 (Weights and Measures);

b. Chapter 7 (The Bureau of Standards, except for subsections 272(f) 12 and 13, which pertain to the investigation of the conditions which affect the transmission of radio waves, and the compilation and distribution of information on such transmission, which activities have been delegated to the Office of Telecommunications.);

c. Chapter 25 (Flammable Fabrics);

d. Chapter 26 (Household Refrigerators); and

e. Chapter 39 (Fair Packaging and Labeling).

.02 The above delegations of authority are subject to the following limitations:

a. The Director may issue such regulations as he considers necessary to carry out his responsibilities, except that procedural regulations pertaining to the formulation, adoption, or publication of voluntary or mandatory product standards, as provided for or authorized by chapters 7, 25, 26, and 39 of title 15, United States Code (are to be issued by the Assistant Secretary for Science and Technology.

b. With respect to chapter 25 of title 15, United States Code, the authorities to adopt final flammability standards, to appoint members of, and deal with, the National Advisory Committee for the Flammable Fabrics Act, and to transmit an annual report of the results of the Department's activities in carrying out the Flammable Fabrics Act, as amended, are reserved to the Secretary. The authority to make determinations of possible need for, and to institute proceedings for the determination of, a flammability standard or other regulation is delegated to the Assistant Secretary for Science and Technology.

c. The authority to prescribe and publish commercial standards, pursuant to section 1213, chapter 26, title 15, United States Code, is reserved to the Secretary.

d. With respect to chapter 39 of title 15, United States Code, the authority delegated in this order excludes the authority to make determinations of (1) an undue proliferation of weights, measures, or quantities, pursuant to 15 U.S.C. 1454(d), and (2) the nonadoption of standards or the nonobservance of adopted standards, pursuant to 15 U.S.C. 1454(e), which authority is delegated to the Assistant Secretary for Science and Technology. The authorities to submit reports to the Congress concerning nonadoption or failure to observe voluntary product standards, pursuant to 15 U.S.C. 1454(e), and to transmit an annual report to the Congress, as required by 15 U.S.C. 1457, are reserved to the Secretary.

.03 The Director is further delegated the authority to perform the functions assigned to the Secretary by section 759(f), chapter 16, title 40, United States Code, pertaining to the conduct of research and the provision of scientific and technological advisory services relating to automatic data processing (ADP) and related systems, except that recommendations to the President concerning the establishment of uniform Federal ADP standards are reserved to the Secretary.

.04 The Director is further delegated the authority to perform the functions vested in the Secretary by:

a. Public Law 90-396 (82 Stat. 339), called the Standard Reference Data Act; and

b. Public Law 85-934 (72 Stat. 1793; 42 U.S.C. 1891-3) to make grants for the support of basic scientific research to nonprofit institutions of higher education and to nonprofit organizations whose primary purpose is the conduct of scientific research.

.05 Pursuant to the authority delegated to the Secretary by the Administrator of the General Services Administration (Temporary Regulation E-10, July 11, 1967, Federal Property Management Regulations), and subject to such policies and directives as the Secretary or the Assistant Secretary for Science and Technology may prescribe, the Director is hereby delegated authority to operate an automatic data processing service center.

.06 The authority delegated to the Secretary by the Administrator of the General Services Administration, dated August 15, 1967 (32 F.R. 11969), to appoint uniformed guards as special policemen and to make all needful rules and regulations for the protection of those parcels of property at National Bureau of Standards installations which are not protected by GSA guards, and over which the Federal Government has exclusive or concurrent jurisdiction, is hereby redelegated to the Director. This authority shall be exercised in accordance with the requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, and policies, procedures, and controls of the General Services Administration.

.07 The authority vested in the Secretary of Commerce, by Executive Order 11654, dated March 13, 1972, which pertains to the Federal Fire Council, is hereby delegated to the Director. This delegation shall include authority to serve as Chairman of the Council or to designate an employee of the National Bureau of Standards to serve in that capacity.

.08 The Director may exercise other authorities of the Secretary as applicable to performing the functions assigned in this order.

.09 The Director may redelegate his authority to any employee of the National Bureau of Standards subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 4. *Functions.* .01 The National Bureau of Standards shall perform the following functions:

a. Develop and maintain the national standards of measurement, and provide means for making measurements consistent with those standards;

b. Determine the physical constants and properties of materials;

c. Develop methods for testing materials, mechanisms, and structures, and conduct such tests thereof as may be necessary, with particular reference to the needs of Government agencies;

d. Cooperate with and assist industry, business, consumers, and governmental organizations in the establishment, technical review, determination of acceptability, and publication of voluntary standards, recommended specifications, standard practices, and model codes and ordinances;

e. Provide advisory service to Government agencies on scientific and technical problems;

f. Conduct a program for the collection, compilation, critical evaluation, publication, and dissemination of standard reference data;

g. Invent and develop devices to serve special scientific and technological needs of the Government;

h. Conduct programs, in cooperation with U.S. business groups and standards organizations, for the development of international standards of practice;

i. Conduct a program of research, investigation, and training with respect to

the flammability characteristics of textiles and fabrics;

j. Conduct research and provide technical services designed to improve the effectiveness of use by the Federal Government of computers and related techniques;

k. Conduct a national fire research and safety program (as provided for by Public Law 90–259 (82 Stat. 34–39), amending chapter 7 of title 15, United States Code);

l. Conduct a program to provide an experimental basis for formulation of Government policy to stimulate the development and use of technology by industry; and

m. Coordinate the activities of the Federal Fire Council.

.02 The Bureau shall perform the following functions, pursuant to the Fair Packaging and Labeling Act (chapter 39, title 15, United States Code):

a. Ascertain the number and other characteristics of the weights, measures, and quantities in which commodities are packaged for retail sale;

b. Conduct studies of the relationship between the weights, measures, and quantities in which commodities are packaged and the ability of consumers to make value comparisons;

c. Conduct studies concerning the extent to which voluntary product standards adopted pursuant to 15 U.S.C. 1454 are being followed by industry;

d. Distribute copies of regulations and standards promulgated under this chapter, and provide information and assistance to appropriate State officials, to promote uniformity in State and Federal regulation of the labeling of consumer commodities; and,

e. Conduct such other studies, investigations, and standards development activities as are necessary to achieve the objectives of the Act.

.03 The Bureau, as appropriate, shall request the views of, and provide an opportunity for participation by, the Bureau of Domestic Commerce in the development and execution of its responsibilities for conducting investigations and analyses, and for developing or appraising product standards, under the Flammable Fabrics Act, the Fair Packaging and Labeling Act, or other Bureau legislative authorities.

Effective date: June 19, 1972.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.72-11160 Filed 7-19-72;8:48 am]

[Dept. Organization Order 30-2B]

NATIONAL BUREAU OF STANDARDS

Organization and Functions

This order effective June 12, 1972, supersedes the material appearing at 35 F.R. 18550 of December 5, 1970, 36 F.R. 5809 of March 27, 1972, 36 F.R. 18428 of September 14, 1971, and 36 F.R. 21537 of November 10, 1971.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the National Bureau of Standards (NBS). This revision establishes a Center for Building Technology under the Institute for Applied Technology (paragraph 11.11) and makes certain other changes of a minor nature.

SEC. 2. *Organization.* The organization structure and line of authority of the National Bureau of Standards shall be as depicted in the attached organization chart. (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

SEC. 3. *Office of the Director.* .01 The Director determines the policies of the Bureau and directs the development and execution of its programs.

.02 The Deputy Director assists the Director in the direction of the Bureau and performs the functions of the Director in the latter's absence.

SEC. 4. *Staff units reporting to the Director.* .01 The Office of Academic Liaison shall serve as the focal point for the Bureau's cooperation with the academic institutions, and serve as liaison office for cooperative research activities between the Bureau and other Government agencies.

.02 The Office of Legal Adviser shall, under the professional supervision of the Department's General Counsel and as provided in Department Organization Order 10–6, serve as the law office of and have responsibility for all legal services at the National Bureau of Standards.

SEC. 5. *Office of the Associate Director for Programs.* The Office of the Associate Director for Programs shall perform the functions of policy development, program analysis, and program promotion; sponsor and coordinate the performance of issue and impact studies; relate Bureau programs to national needs; generate planning formats and develop information on NBS program plans and status for internal and external audiences; administer evaluation panels; and define alternatives for the allocation of resources and advise Bureau management on their implications.

SEC. 6. *Office of the Associate Director for Administration.* .01 The Associate Director for Administration shall be the principal assistant and adviser to the Director on management matters and is responsible for the conduct of administrative management functions, including the management of NBS buildings, plants, and nonscientific facilities. He shall carry out these responsibilities primarily through the organization units specified below, which are under his direction.

.02 The Accounting Division shall administer the official system of central fiscal records, payments, and reports, and provide staff assistance on accounting and related matters.

.03 The Administrative Services Division shall be responsible for security, safety, emergency planning, and civil defense activities; provide mail, messenger, communications, duplicating, and related office services; manage use of auditorium and conference rooms; conduct records and forms management programs; operate an NBS records holding area; manage the NBS motor vehicle fleet; and provide janitorial service.

.04 The Budget Division shall provide advice and assistance to line management in the preparation, review, presentation, and management of the Bureau's budget encompassing its total financial resources.

.05 The Personnel Division shall advise on personnel policy and utilization; administer recruitment, placement, classification, employee development, and employee relations activities; and assist operating officials on these and other aspects of personnel management.

.06 The Plant Division shall maintain the physical plant at Gaithersburg, Md., and perform staff work in planning and providing grounds, buildings, and improvements at other Bureau locations.

.07 The Supply Division shall procure and distribute material, equipment, and supplies purchased by the Bureau, keep records, and promote effective utilization of property, act as the Bureau coordinating office for research, construction, supply, and lease contracts of the Bureau, and administer telephone communications services and travel services.

.08 The Management and Organization Division shall provide consultative services to line management in organization, procedures, and management practices; develop administrative information systems; maintain the directives system; and perform reports management functions.

.09 The Instrument Shops Division shall design, construct, and repair precision scientific instruments and auxiliary equipment.

SEC. 7. *Office of the Associate Director for Information Programs.* .01 The Associate Director for Information Programs shall promote optimum dissemination and accessibility of scientific information generated within NBS and other agencies of the Federal Government; promote the development of the National Standard Reference Data System and a system of information analysis centers dealing with the broader aspects of the National Measurement System; provide appropriate services to insure that the NBS staff has optimum accessibility to the scientific information of the world; and direct public information activities of the Bureau.

.02 The Office of Standard Reference Data shall administer the National Standard Reference Data System which provides critically evaluated data in the physical sciences on a national basis. This requires arrangement for the continuing systematic review of the national and international scientific literature in the physical sciences, the evaluation of the data it contains, the stimulation of research needed to fill important gaps in the data, and the compilation and dissemination of evaluated data through a variety of publication and reference services tailored to user needs in science and industry.

.03 The Office of Technical Information and Publications shall foster the

outward communication of the Bureau's scientific findings and related technical data to science and industry through reports, articles, conferences and meetings, films, correspondence and other appropriate mechanisms; and assist in the preparation, scheduling, printing, and distribution of Bureau publications.

.04 The Library Division shall furnish diversified information services to the staff of the Bureau, including conventional library services, bibliographic, reference, and translation services; and serve as a reference and distribution center for congressional legislative materials and issuances of other agencies.

.05 The Office of International Relations shall serve as the focal point for Bureau activities in the area of international scientific exchanges.

SEC. 8. *Center for Computer Sciences and Technology.* .01 The Center for Computer Sciences and Technology shall conduct research and provide technical services designed to aid Government agencies in improving cost effectiveness in the conduct of their programs through the selection, acquisition, and effective utilization of automatic data processing equipment (Public Law 89-306); and serve as the principal focus within the executive branch for the development of Federal standards for automatic data processing equipment, techniques, and computer languages.

.02 The Director shall direct the development, execution, and evaluation of the programs of the Center.

.03 The functions of the organizational units of the Center are as follows:

a. The Office of Information Processing Standards shall provide leadership and coordination for Government efforts in the development of information processing standards at the Federal, national, and international levels.

b. The Office of Computer Information shall function as a specialized information center for computer sciences and technology.

c. The Computer Services Division shall provide computing and data conversion services to NBS and other agencies on a reimbursable basis; and provide supporting problem analysis and computer programing as required.

d. The Systems Development Division shall conduct research in information sciences and computer programing; develop advanced concepts for the design and implementation of data processing systems; and provide consultative services to other agencies in software aspects of the design and implementation of data processing systems.

e. The Information Processing Technology Division shall conduct research and development in selected areas of information processing technology and related disciplines to improve methodologies and to match developing needs with new or improved techniques and tools.

SEC. 9. *Institute for Basic Standards.* .01 The Institute for Basic Standards shall provide the central basis within the United States of a complete and consistent system of physical measurement; coordinate that system with measurement systems of other nations; and furnish essential services leading to accurate and uniform physical measurements throughout the Nation's scientific community, industry, and commerce.

.02 The Office of the Director.

a. The Director shall direct the development, execution, and evaluation of the programs of the Institute.

b. The Deputy Director shall assist in the direction of the Institute and perform the functions of the Director in the latter's absence.

c. The Deputy Director, Institute for Basic Standards/Boulder shall assist in the direction of the Institute's programs at Boulder and report to the Associate Director for Administration through the Director, IBS, in supervising the administrative divisions at Boulder.

d. The administrative divisions reporting to the Deputy Director, Institute for Basic Standards/Boulder include:

Supply Services Division.
Instrument Shops Division.
Plant Division.

These divisions and units within his office shall provide staff support for the technical program and administrative services for the NBS organization at Boulder, Colo. The administrative units and divisions shall also service, as needed, National Oceanic and Atmospheric Administration and Office of Telecommunications units at Boulder, Colo., and associated field stations.

.03 The Office of Measurement Services shall coordinate the Bureau's measurement services program, including development and dissemination of uniform policies on Bureau calibration practices.

.04 The Center for Radiation Research shall constitute a prime resource within the Bureau for the application of radiation, not only to Bureau mission problems, but also to those of other agencies and other institutions. The resulting multipurpose and collaborative functions reinforce the capability of the Center for response to Bureau mission problems.

a. The Director shall report to the Director, Institute for Basic Standards, and shall direct the development, execution, and evaluation of the programs of the Center. The Deputy Director shall assist in the direction of the Center and perform the functions of the Director in the absence of the latter.

b. The organizational units of the Center for Radiation Research are as follows:

Linac Radiation Division.
Nuclear Radiation Division.
Applied Radiation Division.

Each of these Divisions shall engage in research, measurement, and application of radiation to the solution of Bureau and other institutional problems, primarily through collaboration.

.05 *The other organization* units of the Institute for Basic Standards are as follows:

LOCATED AT BUREAU HEADQUARTERS

Applied Mathematics Division.
Electricity Division.
Mechanics Division.
Heat Division.
Optical Physics Division.

LOCATED AT BOULDER, COLO.

Quantum Electronics Division.
Electromagnetics Division.
Time and Frequency Division.
Laboratory Astrophysics Division.
Cryogenics Division.

a. Each Division except the Applied Mathematics Division shall engage in such of the following functions as are appropriate to the subject matter field of the Division:

1. Develop and maintain the national standards for physical measurement, develop appropriate multiples and submultiples of prototype standards, and develop transfer standards and standard instruments;

2. Determine important fundamental physical constants which may serve as reference standards, and analyze the self-consistencies of their measured values;

3. Conduct experimental and theoretical studies of fundamental physical phenomena of interest to scientists and engineers with the general objective of improving or creating new measurement methods and standards to meet existing or anticipated needs;

4. Conduct general research and development on basic measurement techniques and instrumentation, including research on the interaction of basic measuring processes on the properties of matter and physical and chemical processes;

5. Calibrate instruments in terms of the national standards, and provide other measurement services to promote accuracy and uniformity of physical measurements;

6. Correlate with other nations the national standards and definitions of the units of measurement; and

7. Provide advisory services to Government, science, and industry on basic measurement problems.

b. The Applied Mathematics Division shall conduct research in various fields of mathematics important to physical and engineering sciences, automatic data processing, and operations research, with emphasis on statistical, numerical and combinatorial analysis and systems dynamics; provide consultative services to the Bureau and other Federal agencies; and develop and advise on the use of mathematical tools, in checking mathematical tables, handbooks, manuals, mathematical models, and computational methods.

SEC. 10. *Institute for Materials Research.* .01 The Institute for Materials Research shall conduct materials research leading to improved methods of measurement, standards, and data on the properties of materials needed by industry, commerce, educational institutions, and Government; provide advisory and research services to other Government agencies; and develop, produce, and distribute standard reference materials.

.02 The Director shall direct the development, execution and evaluation of the programs of the Institute. The Deputy Director shall assist in the direction

of the Institute and perform the functions of the Director in the latter's absence.

.03 The Office of Standard Reference Materials shall evaluate the requirements of science and industry for carefully characterized reference materials which provide a basis for calibration of instruments and equipment, comparison of measurements and materials, and aid in the control of production processes in industry; and stimulate the Bureau's efforts to develop methods for production of needed reference materials and direct their production and distribution.

.04 The other organization units of the Institute for Materials Research are as follows:

Analytical Chemistry Division.
Polymers Division.
Metallurgy Division.
Inorganic Materials Division.
Reactor Radiation Division.
Physical Chemistry Division.

Each division shall engage in such of the following functions as are appropriate to the subject matter field of the Division:

a. Conduct research on the chemical and physical constants, constitution, structure, and properties of matter and materials;

b. Devise and improve methods for the preparation, purification, analysis, and characterization of materials;

c. Investigate fundamental chemical and physical phenomena related to materials of importance to science and industry, such as fatigue and fracture, crystal growth and imperfections, stress, corrosion, etc.;

d. Develop techniques for measurement of the properties of materials under carefully controlled conditions including extremes of high and low temperature and pressure and exposure to different types of radiation and environmental conditions;

e. Assist in the development of standard methods of measurement and equipment for evaluating the properties of materials;

f. Conduct research and development methodology leading to the production of standard reference materials, and produce these materials;

g. Provide advisory services to Government, industry, universities, and the scientific and technological community on problems related to materials;

h. Assist industry and national standards organizations in the development and establishment of standards; and

i. Cooperate with and assist national and international organizations engaged in the development of international standards.

SEC. 11. *Institute for Applied Technology.* .01 The Institute for Applied Technology shall provide technical services to promote the use of available technology and to facilitate technological innovation in industry and Government; cooperate with public and private organizations leading to the development of technological standards (including mandatory safe standards), codes and methods of test; and provide technical advice and services to Government agencies upon request. The Institute shall also monitor NBS engineering standards activities and provide liaison between NBS and national and international engineering standards bodies.

.02 The Director shall direct the development, execution, and evaluation of the programs of the Institute. The Deputy Director shall assist in the direction of the Institute and perform the functions of the Director in the latter's absence.

.03 The Office of Engineering Standards Services shall cooperate with and assist producers, distributors, users and consumers, and agencies of the Federal, State, and local governments in the establishment of standards for products, and shall administer the Department of Commerce's Voluntary Product Standards program as set forth in Part 10 of Title 15, Code of Federal Regulations, "Procedures for the Development of Voluntary Product Standards".

.04 The Office of Weights and Measures shall provide technical assistance to the States with regard to model laws and technical regulations, and to the States, business, and industry in the areas of testing, specifications, and tolerances for weighing and measuring devices, to design, construction, and use of standards of weight and measure of associated instruments, and the training of State and local weights and measures officials. The office includes the Master Railway Track Scale Depot, Clearing, Ill.

.05 The Office of Invention and Innovation shall analyze the effect of Federal laws and policies (e.g., tax, antitrust, and regulatory policies) on the national climate for invention and innovation; undertake studies in related areas with other agencies; and assist and encourage inventors through inventors' services and programs, including cooperative activities with the States.

.06 The Product Evaluation Technology Division shall develop the technology, standards, and test methods for evaluating products including their systems, components, and materials.

.07 The Electronic Technology Division shall develop criteria for the evaluation of products and services in the general field of electronic instrumentation; cooperate with appropriate public and private organizations in identifying needs for improved technology in this field; and cooperate in the development of standards, codes and specifications. Further, it shall apply the technology of electronic instrumentation to the development of methods of practical measurement of physical quantities and properties of materials.

.08 The Technical Analysis Division shall conduct benefit-cost analyses and other basic studies required in planning and carrying out programs of the Institute. This includes the development of simulations of industrial systems and of Government interactions with industry, and the conduct of studies of alternative Institute programs. On request, the Division shall provide similar analytic services for other programs of the Department of Commerce, in particular, those of the science-based bureaus, and, as appropriate, for other agencies of the executive branch.

.09 The Measurement Engineering Division shall serve the Bureau in an engineering consulting capacity in measurement technology; and provide technical advice and apparatus development supported by appropriate research, especially in electronics, and in the combination of electronics with mechanical, thermal, and optical techniques.

.10 The Fire Technology Division shall (a) conduct data gathering, research, education and demonstration programs on fire, its causes, prevention, and control, and on the flammability of products, fabrics, and materials; (b) develop test methods and standards in flammability; and (c) coordinate all other fire research and safety activities of the National Bureau of Standards.

.11 The Center for Building Technology shall consult with industry, government agencies, professional associations, labor organizations, consumers, and such organizations as the National Conference of States on Building Codes and Standards in developing test methods for evaluating the performance of buildings including their materials and components, the support and stability characteristics of their elements and systems, the effects of new design strategies, their fire safety and environmental characteristics, and their service and communication systems; formulating performance criteria for building design and urban systems; and performing research, including research on safety factors, in the systems approach to building design and construction, in improving construction and management efficiency, in building material characteristics, in structural behavior, and in building environmental systems.

a. The Director shall report to the Director, Institute for Applied Technology and shall direct the development, execution and evaluation of the programs of the Center. The Deputy Director shall assist in the direction of the Center and perform the functions of the Director in the latter's absence.

b. The organizational units of the Center for Building Technology shall be:

Office of Housing Technology.
Office of Federal Building Technology.
Office of Building Standards and Codes Services.
Building Environment Division.
Structures, Materials and Life Safety Division.
Technical Evaluation and Application Division.

Effective date: June 12, 1972.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.72-11161 Filed 7-19-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

L. D. SCHRIEBER CHEESE CO., INC.

Pasteurized Process Cheese Deviating from Identity Standards; Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to L. D. Schrieber and Co., Inc., 1607 Main Street, Post Office Box 610, Green Bay, Wis. 54305. This permit covers limited interstate marketing tests of an institutional pack of pasteurized process cheese that deviates from the standards of identity for pasteurized process cheese (21 CFR 19.750), in that it contains enzyme treated cheddar cheese.

The principal display panel of the label will bear the ingredient statement "contains enzyme treated cheddar cheese" and the product will be further identified by a production code.

This permit expires 12 months from the date of signature of this document.

Dated: July 10, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11164 Filed 7-19-72;8:50 am]

NATIONAL ADVISORY DRUG COMMITTEE

Notice of Public Meeting

Pursuant to the provisions of section 13 of Executive Order 11671 of June 5, 1972, notice is hereby given that the next meeting of the National Advisory Drug Committee will be held on July 25, 1972, commencing at 9:30 a.m., in Room 14-71, 5600 Fishers Lane, Rockville, MD 20852.

This meeting has been convened as a special conference for consideration of actions which are now pending in regard to the withdrawal of approval of new animal drug applications for diethylstilbestrol.

The meeting shall be open to the public and a period of time will be allotted for public participation. A verbatim transcript will be kept and will be available for public inspection from the Office of the Committee's Executive Secretary, Room 7-75, 5600 Fishers Lane, Rockville, MD. A list of committee members and summary minutes may be obtained from the Executive Secretary, Albert F. Esch, M.D., at the above address.

Persons desiring copies of the transcript shall be referred to the reporting service.

Dated: July 18, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11322 Filed 7-19-72;9:52 am]

Office of the Secretary

DEPUTY ASSISTANT SECRETARY FOR PERSONNEL AND TRAINING

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare has been amended to add new Chapter 1T07, Deputy Assistant Secretary for Personnel and Training. This material supersedes all previous material issued as Chapter 2-510 (34 F.R. 14090 dated Sept. 5, 1969. The new chapter reads as follows:

SECTION 1T07.00 *Mission.* The Office of Personnel and Training under the general direction of the Assistant Secretary for Administration and Management and the direct supervision of the Deputy Assistant Secretary for Personnel and Training serves as the Secretary's staff for promoting effective personnel management and personnel administration in the Department. The Office (1) advises and acts for the Secretary on personnel management and training matters affecting HEW employees; (2) formulates policies and plans broad programs under which the personnel and training functions will be carried out throughout the Department; (3) maintains cognizance of such policies and programs; (4) represents the Department on personnel and training matters with the Civil Service Commission, other Federal agencies, the Congress, and public; (5) provides special staff assistance to the Assistant Secretary for Health and Scientific Affairs in matters concerning the coordination and administration of personnel and training programs among the health agencies of the Department; (6) administers the Public Health Service Commissioned Corps personnel system; and (7) provides personnel administrative services to the Headquarters of the Office of the Secretary, Health Services and Mental Health Administration, and Food and Drug Administration.

SEC. 1T07.10 *Organization.* The Deputy Assistant Secretary for Personnel and Training heads the Office of Personnel and Training and reports directly to the Assistant Secretary for Administration and Management. The components of the Office of Personnel and Training are as follows:

Administrative Office.
Office of Labor Relations.
Office of Upward Mobility.
Commissioned Personnel Division.
Executive Manpower and Development Division.
Personnel Operations and Evaluation Division.
Personnel Policy and Planning Division.

SEC. 1T07.20 *Functions.* The functions performed by the Deputy Assistant Secretary for Personnel and Training and his Office are as follows:

1. *Deputy Assistant Secretary for Personnel and Training.* Provides executive leadership and direction to the development, coordination, administration, and evaluation of Department personnel and training policies, plans, programs, and activities; advises and represents the Secretary and the Assistant Secretary for Administration and Management on all Department personnel and training matters; provides special staff services and support to the Office of the Assistant Secretary for Health and Scientific Affairs in the coordination and administration of personnel and training programs and activities among the health agencies of the Department; and directs the administration of the Public Health Service Commissioned Corps personnel system.

2. *Administrative Office.* Plans, organizes, directs, and implements the administrative procedures and services for the Office of Personnel and Training. Formulates and executes the budget, including funds control and coordination of accounting reporting; develops manpower plans, controls manpower resources, and assures that all personnel actions conform to Departmental and Office policy; provides other administrative services, such as space and procurement; provides consultation on administrative management to key staff.

3. *Office of Labor Relations.* Assists in policy formulation, administers, and provides technical assistance in a comprehensive labor relations program for the Department, with a view toward establishing effective and sound relationships between management and employees, and with labor unions at the international, national, and local levels.

4. *Office of Upward Mobility.* A. Provides central leadership, guidance, and coordination in developing and conducting an effective upward mobility program for the Department.

B. Assists agency, regional, and field personnel offices in developing upward mobility programs appropriate to their needs and in accordance with directives of the Secretary on the subject.

C. Reviews and analyzes upward mobility program proposals for adequacy, appropriateness, and conformance with directives of the Secretary; makes recommendations for modification and allocation of resources as appropriate.

D. Monitors the implementation of programs and supportive activities to ensure relevancy of expended efforts and to stimulate new activities as required.

E. Evaluates the effectiveness of programs to determine if they are, in fact, meeting the needs and objectives for

which they were designed; issues periodic reports on the findings, with specific recommendations for corrective action where needed.

5. *Commissioned Personnel Division.* Plans, develops, and administers a comprehensive personnel management program for the Public Health Service Commissioned Corps; develops and promulgates the policies and procedures for administering such a personnel program; performs all operating functions associated with the Commissioned Corps personnel system, including recruitment, appointment, assignment, promotion, training, awards, compensation and benefits, separations, and retirements; provides advice and counsel concerning rights and benefits to members of the Corps; provides guidance and assistance concerning personnel management of the Commissioned Corps to the several health agencies; serves as the central repository for all records reflecting the service and status of members of the Corps.

6. *Executive Manpower and Development Division.* Formulates policies, develops and administers programs, and provides technical assistance to operating agencies on activities related to recruitment, placement, utilization, development, retention, and separation of employees subject to the Executive Assignment System. Forecasts needs for executive positions and prepares justifications for additional quota spaces; assures a continuing supply of well-qualified candidates for executive positions from DHEW and external sources; establishes and coordinates an executive development program for incumbents of executive positions; promotes the concept of equal opportunity for women and minorities in executive positions.

7. *Personnel Operations and Evaluation Division.* Provides personnel administrative service to the Office of the Secretary, at Headquarters, Headquarters of Health Service and Mental Health Administration and Headquarters of Food and Drug Administration. Develops and maintains the Departmental Personnel Data System. Evaluates the personnel management and administrative programs of the Department. Provides technical assistance to field activities and agencies of the Department with special emphasis on programs dealing with the regions. Develops and operates the departmental management intern program. Provides leadership and direction to the incentive awards program and provides service functions as required.

8. *Personnel Policy and Planning Division.* Provides personnel management leadership in the development, review and interpretation of Department personnel policy procedures and regulations. Manages special high-priority policy or program development tasks and projects. Develops and administers programs and provides technical advice and assistance to operating agencies and others related to personnel policy, regulations, staffing, training, classification, job restructuring, compensation, employee services, grievances, and appeals.

Dated: July 13, 1972.

RODNEY H. BRADY,
Assistant Secretary for Administration and Management.

[FR Doc.72-11181 Filed 7-19-72;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Management

[Docket No. D-72-188]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority with Respect to Loan and Contract Servicing

The redelegation of authority to regional administrators et al., with respect to loan and contract servicing published at 35 F.R. 16104, October 14, 1970, and amended at 36 F.R. 1488, January 30, 1971, 36 F.R. 21539, November 10, 1971, and 37 F.R. 104, January 5, 1972, is further amended as follows:

1. Section A, 1 is revised to read as follows:

SECTION A. *Authority redelegated with respect to the National Housing Act.* 1. Each Regional Administrator, Deputy Regional Administrator, Area Director, Deputy Area Director, Insuring Office Director, and Insuring Office Deputy Director is authorized to exercise the following power and authority of the Secretary of Housing and Urban Development in connection with titles II, V, VI, VII, VIII, IX, X, and XI of the National Housing Act (12 U.S.C. 1701 et seq.), subsequent to final insurance endorsement relating to insured loans and mortgages, claims, rights, and interests involving home properties and multifamily projects (other than collection of insurance premiums), housing for the elderly, nursing homes, intermediate care facilities, group practice facilities, hospitals, mobile homes and mobile home courts, and land development:

* * * * *

2. In section A, 1, new paragraph l through s are added to read as follows:

l. To consent to the release of mortgagors.

m. To direct field office physical inspections of properties covered by insured project mortgagees, examination of operating reports and mortgagee annual inspection reports, and to institute corrective action to cure deficiencies disclosed by such inspections and reports.

n. To approve requests of mortgagees for extension of the regulatory period for commencement of foreclosure, the regulatory period for election to assign the mortgage to the Secretary and the regulatory period within which to tender properties to the Secretary.

o. To approve plans to reinstate defaulted Secretary-held mortgages and to initiate action to cure defaults of Secretary-held and insured mortgages.

p. To establish and administer surveillance of financial institutions regarding the servicing of one- to four-family housing mortgages essential to the prevention and cure of delinquencies as well as the avoidance of defaults, foreclosures, and acquisitions.

q. To approve mortgagee requests to obtain title by deed in lieu of foreclosure to property covered by an insured home mortgage.

r. To assess late charges against delinquent mortgagors under Secretary-held home mortgages.

s. To determine the need for and recommend initiation of action to acquire properties under defaulted mortgages by foreclosure.

3. In section A, paragraph 2 is revised to read as follows:

2. Each Director, Housing Management Division, Area Office, and each Chief, Mortgages and Properties Division, Insuring Office, is authorized to exercise the power and authority under section A, 1, paragraphs d–s.

(Secretary's delegation of authority published at 36 F.R. 5005, Mar. 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of March 16, 1972.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.72-11195 Filed 7-19-72;8:50 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-269A etc.]

DUKE POWER CO.

Notice and Order for Prehearing Conference

In the matter of Duke Power Co. (Oconee Units 1, 2, and 3, McGuire Units 1 and 2), Dockets Nos. 50-269A, 50-270A, 50-287A, 50-369A, 50-370A.

Please take notice, that pursuant to the Atomic Energy Commission's notice of antitrust hearing dated June 28, 1972, and published in the FEDERAL REGISTER (37 F.R. 13202) on July 4, 1972, and in accordance with the said Commission's rules of practice, a prehearing conference will be held in the above entitled proceedings on September 6, 1972 at 10 a.m. local time, at Courtroom 309, U.S. Court of Claims, 717 Madison Place NW., Washington, DC 20005.

The cardinal objective of said prehearing conference will be to establish a clear and particularized identification of matters related to the issue whether activities under the permits applied for would create or maintain a situation inconsistent with the antitrust laws as specified

in subsection 105a of the Atomic Energy Act of 1954, as amended.

To that end,

A. Each of the attorneys for the parties and for the petitioners to intervene will supply in writing to this Board and to each other on or before August 9, 1972, a statement listing:

(1) The legal theory of the party or petitioner concerning the question whether the issuance of the permits applied for would create or maintain a situation inconsistent with the antitrust laws and supplying the authorities relied on in support of such theory.

(2) The detailed facts on which such legal theory is based, including the dates, places, and persons involved and attaching copies of all documents pertaining thereto.

B. Following the exchange of such statements and prior to the prehearing conference, the attorneys for the parties and the petitioners are requested to discuss with each other and report to the Board at the prehearing conference on:

(1) The prospect of settlement; and

(2) Their willingness to stipulate to particular facts or to a statement of facts.

C. Each of the parties and the petitioners shall be prepared to submit at the prehearing conference:

(1) A written statement setting forth under topical headings a concise statement of the essential facts and a recital of the contested issues of fact and of law.

(2) A schedule of additional discovery, if any, which he requires and a time table showing the dates by which each item of discovery will be completed.

(3) Copies of written exhibits and printed documents which will be offered in evidence at the formal hearing.

(4) The names and addresses of all witnesses now intended to be called.

It is suggested that the foregoing documents be exchanged or if impracticable, made available to all counsel for their examination prior to the prehearing conference.

In addition to determining the particular factual and legal issues to be determined at the formal hearings which is its cardinal objective the Board will also:

1. Hear oral arguments on the petitions to intervene and consider amendments thereto;

2. Consider motions addressed to:

(a) Jurisdictional questions including pending proceedings before the Federal Power Commission

(b) The letter of advise of the Attorney General

(c) Other matters including: simplification of issues; additional discovery; reduction in the amount of proof and number of expert witnesses; settlement proposals; the timetable for discovery, if any; the presentation of the evidence at formal hearing; the final listing of witnesses and exchange of written testimony and documentary evidence; the submission and exchange of trial briefs; and such other matters as may aid in the disposition of the proceeding.

Each party shall be represented at the prehearing conference by the attorney who expects to present the evidence at the formal hearing.

Issued at Washington, D.C., this 14th day of July 1972.

By order of the Atomic Safety and Licensing Board.

WALTER K. BENNETT,
Chairman.

[FR Doc. 72-11169 Filed 7-19-72; 8:48 a.m.]

[Docket No. 50-367]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice of Availability of AEC Draft Environmental Statement for Bailly Generating Station

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Atomic Energy Commission (the Commission) in 10 CFR Part 50, Appendix D, notice is hereby given that a draft environmental statement related to the proposed issuance of a construction permit to the Northern Indiana Public Service Co. for the Bailly Generating Station—Nuclear 1, to be located on the south end of the shore of Lake Michigan in Westchester Township, Porter County, Ind., has been prepared by the designee of the Commission's Director of Regulation and is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the West Chester Township Public Library, 125 South Second Street, Chesterton, IN 46304. The draft environmental statement is also being made available at the Office of the Governor, 206 State House, Indianapolis, IN 46204, and the Lake-Porter County Regional Transportation and Planning Commission, 8149 Kennedy Avenue, Suite D, Highland, IN 46322.

A notice of availability of the applicant's environmental report (and Amendment No. 1 thereto) was published in the FEDERAL REGISTER on January 22, 1972 (37 F.R. 1073).

Copies of the Commission's draft environmental statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Radiological and Environmental Protection.

Interested persons may, within seventy-five (75) days from date of publication of this notice in the FEDERAL REGISTER, submit comments on the proposed action, and on the draft environmental statement for the Commission's consideration. Federal and State agencies are being provided with copies of the draft environmental statement (local agencies may obtain this document on request) and, when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 12th day of July, 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-11140 Filed 7-19-72;8:45 am]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN AND WATER POLLUTION ABATEMENT SCHEDULE

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, July 26, 1972, in the South Auditorium of the ASTM Building, 1916 Race Street in Philadelphia, beginning at 2 p.m. The subjects of the hearing will be as follows:

A. *Proposal to amend the Comprehensive Plan so as to include the following projects:*

1. *Township of Maple Shade.* A well water supply project to augment public water supplies in the township of Maple Shade, Burlington County, N.J. Designated as Well No. 7, the new facility will be limited to a maximum monthly withdrawal of 30 million gallons.

2. *Delaware Department of Highways and Transportation.* Dredging of fill material for construction of highway I-495 across Cherry Island in the vicinity of Wilmington, New Castle County, Del. Approximately 3 million cubic yards of borrow will be dredged from the bed of the Delaware River.

3. *Delaware County Regional Water Control Authority.* A sewerage interceptor project extending from the Darby Creek Joint Authority's sewage treatment plant in Darby Township, Delaware County, Pa., to the city of Philadelphia's southwest sewage treatment plant. The new facility will serve 19 communities in Delaware County. It will include a 72-million-gallon-a-day pumping station and 2.5 miles of 66-inch diameter force main.

4. *City of Philadelphia Water Department.* A project to upgrade the capacity and treatment at the city's northeast sewage treatment plant. Improved service will be provided to adjacent townships in Bucks and Montgomery Counties as well as to the city of Philadelphia proper. The new facility is designed to treat 250 million gallons per day and provide removal of 92 percent of BOD_5 prior to discharge into Zone 3 of the Delaware River.

5. *Montgomery Township Municipal Sewer Authority.* Construction of approximately 7,600 feet of sewage interceptor in Montgomery and Hatfield Townships, Montgomery County, Pa. The new facility is designed to convey 2.3 million gallons per day to the existing Hatfield sewage treatment plant.

6. *Shoemakersville Municipal Authority.* Expansion of the existing sewage treatment plant in the Borough of Shoemakersville, Berks County, Pa. Service is provided in the borough and portions of Perry Township. The project is designed to treat 350,000 gallons per

day and remove 90 percent of BOD_5 prior to discharge into the Schuylkill River.

7. *East Norriton-Plymouth Joint Sewer Authority.* Expansion of the existing sewage treatment plant located in Plymouth Township, Montgomery County, Pa. Service is provided to Plymouth, East Norriton, and Whitpain Townships. The facility is designed to treat 8.1 million gallons per day and provide 90 percent removal of BOD_5 prior to discharge into the Schuylkill River.

8. *Deptford Township Municipal Utilities Authority.* A well water supply project to augment public water supplies in Deptford Township, Gloucester County, N.J. New wells Nos. 4 and 5 will be utilized to provide service limited to 60 million gallons monthly until the township connects to the regional sewerage facilities of the Gloucester County Sewerage Authority. After connection to the regional sewerage system, total permissible withdrawal for the township from all wells will be increased to 75 million gallons monthly.

9. *Northampton Municipal Authority.* Construction of an interceptor sewer along Iron Works Creek and Mill Creek to transport sewage from parts of Northampton Township, Bucks County, Pa., to the city of Philadelphia's northeast sewage treatment plant. Approximately 54 miles of varying sizes of pipes will convey an average design flow of 5 million gallons per day to the treatment plant via the Pine Run and Neshaminy interceptor sewers.

B. *Proposal to approve the following water pollution abatement schedule:*

1. *Riegel Products Corp (A-72-3).* Construction of waste treatment facilities at the company's property in Milford, Hunterdon County, N.J. The company plans to complete construction of the necessary works and place them in operation no later than December 31, 1973. Waste treatment would be upgraded to comply with minimum 85 percent removal required by basinwide standards. Discharge would be to Zone 1-E of the Delaware River.

Documents relating to the items listed for hearing may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission.

W. BRINTON WHITALL,
Secretary.

JULY 14, 1972.

[FR Doc.72-11179 Filed 7-19-72;8:51 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19542]

RCA GLOBAL COMMUNICATIONS, INC.

Memorandum Opinion and Order Instituting Investigation

1. The Commission has before it proposed revisions filed on June 2, 1972, by RCA Global Communications, Inc. (RCA) to its Tariff FCC No. 58[1] which are scheduled to become effective July 13, 1972. The proposed revisions were filed for the purpose of reducing the charge for AVD channels between Guam and Thailand from $4,800 per month to $4,475 per month.

2. Originally, RCA requested, on May 23, 1972, special permission to institute the $4,475 charge on less than statutory notice. This request was denied because the substantiating material supplied by RCA showed that its costs for this service were $4,822 per month, a disparity between the proposed charge and costs that presented questions as to the lawfulness of the charge. We did, however, grant RCA special permission[2] to file, on less than statutory notice, a rate of $4,800 per month. Prior to this reduction, the charge had been $5,375 per month.

3. As mentioned above, the cost figure provided by RCA for this service is $4,822[3] per month or $347 greater than the proposed charge. RCA's costs are calculated as follows:

Investment:	
Microwave	$9,910
Central office	2,204
Materials and supplies	138
Working capital (15 days)	2,195
Total	14,447
Return requirement	1,820
Operating costs:	
Circuit rental	45,600
Central office	1,229
Microwave depreciation	991
Microwave O&M	621
Total operating cost	48,441
G&A at 15.7 percent	7,605
Annual revenue requirement	57,866
Monthly revenue requirement	4,822

The fact that the proposed charge is lower than the relevant cost as calculated above by RCA raises questions as to the lawfulness of such charge under sections 201(b) and 202(a) of the Communications Act. See American Telephone and Telegraph Company and Western Union Private Line Cases, 34 F.C.C. 207 (1963).

4. In support of its proposed charge, RCA argues that the rate should reflect, in addition to pure cost considerations, the charges for leased channel service from Guam to other points in the Pacific area, the distance between terminals (approximately 3,000 miles) and the competitive environment.[4] Although these factors may be relevant, they are not persuasive, as presented, without further information.

5. We also note that RCA, in support of its proposed charge, referred to a difference in costing procedures used by it and another carrier, with the indication that if the cost procedures used by that carrier were accurate, and produced lower costs, they should be permitted to follow the same procedure. Even assuming this is a valid argument, the staff does not believe that revenue requirements would be sufficiently reduced to cover costs. We recognize that uniform cost procedures for the several carriers are desirable, and have been working with the industry for the past several years to develop uniformity. However, the costs presented by RCA were developed by that company, and we must assume that RCA has concluded that its procedures are accurate. We note that, while we are setting this matter for formal hearing, it may well be that this issue can be more expeditiously and efficiently handled through informal prehearing procedures. If the latter should prove to be the case, a dismissal or termination may be requested prior to the evidentiary hearing stage.

Accordingly, it is ordered, Pursuant to sections 4(i), 201(b), 202(a), 204, 205, and 403 of the Communications Act, the above-referenced tariff provisions are hereby suspended until October 12, 1972, and an investigation is ordered into their lawfulness under sections 201(b) and 202(a) of the Act.

It is further ordered, That a hearing be held in the proceeding at the Commission's offices in Washington, D.C., at a time to be specified in a subsequent order and that the hearing examiner designated to preside at the hearing shall certify the record to the Commission for decision without preparing either an initial or recommended decision, and that the Chief, Common Carrier Bureau shall prepare and issue a recommended decision, which shall be subject to the submission of exceptions and requests for oral argument as provided in §§ 1.276 and 1.277 of the Commission's rules (47 CFR 1.276 and 1.277) after which the Commission shall issue its decision as provided in § 1.282 of the Commission's rules (47 CFR 1.282).

It is further ordered, That RCA is made a party respondent to this proceeding and the Common Carrier Bureau is named a party hereto.

Adopted: July 12, 1972.

Released: July 14, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-11212 Filed 7-19-72;8:52 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly,

[1] Specifically 464th Revised Page 1 and 6th Revised Page 6 AD.

[2] No. 6538 granted May 31, 1972.

[3] This figure is based on satellite costs only. There are no available cable channels on the proposed route, and so no cable figures are available.

[4] Letter to the Commission dated May 26, 1972.

[5] By the Commission: Commissioner Robert E. Lee absent; Commissioner Hooks not participating.

have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01068---	The Bowring Steamship Co., Ltd.: Capulet.
01172---	H. Clarkson & Co., Ltd.: Swiftnes.
01244---	Mytilus A.S.: Carpo.
01318---	Aug. Bolten, Wm. Miller's Nachfolger: Esther Bolten.
01323---	Manchester Liners Ltd.: Manchester Concept.
01361---	Transportacion Maritima Mexicana, S.A.: Maria Elisa. Sara Lupe.
01428---	The Ocean Steam Ship Co., Ltd.: Deucalion. Peisander. Prometheus. Protesilaus.
01439---	Cory Maritime Ltd.: Waikiwi Pioneer.
01464---	Christian Salvesen Ltd.: Invershin.
01533---	Henry Nielsen OY/AB: Lita.
01841---	Chas. Kurz & Co., Inc.: Naeco.
01861---	BP Tanker Co., Ltd.: British Avon.
01891---	Canal Barge Co., Inc.: CBC 151.
01904---	Waterman Steamship Corp.: Iberville.
01982---	AB Svenska Ostasiatiska Kampaniet: Nihon.
01995---	Rederi AB Disa: Pacific Wasa.
02137---	Arne Teigen: Rytterholm.
02198---	The Peninsular & Oriental Steam Navigation Co.: Garmula.
02199---	Atlantic Richfield Co.: Great Lakes.
02232---	Zante Navegacion S.A.: Federal Seaway.
02293---	China Marine Investment Co., Ltd.: Liberty Manufacturer.
02394---	Astrobrillo Compania Naviera S.A.: Ionic.
02468---	Czechoslovak Ocean Shipping: Praha.
02471---	P. N. Djakarta Lloyd-Djakarta: Hadji Agus Salim.
02723---	Bayou City Barge Lines, Inc.: Gary. Stephen. Mary Louise.
02501---	Standard Oil Co. of California: Chevron California.
02551---	Ellerman Lines Ltd.: City of Colombo.
02715---	Allied Towing Corp.: ATC–2001. ATC–3061. ATC–1603. ATC–83. ATC–3060. ATC–165. ATC–3062. ATC–135.
02836---	The Scindia Steam Navigation Co., Ltd.: Jalayamuna.
02877---	Nippon Yusen Kabushiki Kaisha: Tamano Maru.
02888---	Stolt-Nielsens Rederi A/S: Stolt Arthemis.
02902---	Alamo Chemical Transportation Co.: Alamo 3000. Alamo 3003. Alamo 3004. Alamo 3001. Alamo 3002. Alamo 800. Alamo 1000. Alamo 900. Sun Chem 300. Sun Chem 1000. Sun Chem 1100. Sun Chem 100. Sun Chem 1300. Sun Chem 1200. Sun Chem 500. Sun Chem 600. Sun Chem 800. Molly Smith. Tom Smith. Alamo 2001. Alamo 2000. Alamo 2003. Sun Chem 1400. Sun Chem 1500. Alamo 2002. Alamo 1100. Suzanne Smith.
02935---	Cable & Wireless Ltd.: Cable Enterprise.
03053---	Ole Man River Towing, Inc.: Quin.
03129---	Orion Navigation Corp.: Avra.
03137---	The Cunard Steam-Ship Co., Ltd.: Cunard Campaigner. Cunard Caravel. Cunard Carronade. Cunard Calamanda. Cunard Champion. Cunard Chieftain. Cunard Cavalier. Cunard Carrier.
03357---	Kirno Hill Corp.: Acquarius. Mabruk.
03397---	Hilmar Reksten: Gorilian.
03422---	Daiwa Kaiun Kabushiki Kaisha: Aki Maru.
03468---	Nihonkai Kisen Kabushiki Kaisha: Oppama Maru.
03508---	Taiyo Gyogyo K.K.: Nagasaki Maru. Hoyo Maru.
03509---	Taiyo Shosen K.K.: Ikuyo Maru. Ryuyo Maru.
03516---	Toko Kauin K.K.: Toko-Maru.
03720---	Global Marine, Inc.: Glomar Grand Banks.
03972---	Chimo Shipping Ltd.: George Crosbie.
04007---	Egon Oldendorff: Imme Oldendorff.
04008---	The Cleveland-Cliffs Iron Co.: Charles M. White. Thomas F. Patton. Tom M. Girdler.
04128---	J. Brunvall: Brunhild. Brunvard.
04136---	Thomas Marine Co.: S.C. 31. S.C. 32. S.C. 33. S.C. 34.
04393---	World-Wide Transport, Inc.: Conoco Italia
04395---	Permanente Steamship Corp.: 272
04470---	Texaco Panama, Inc.: Texaco Veragus.
04500---	Miura Enyo Gyogyo Kabushiki Kaisha: Koho Maru No. 1.
04571---	Cia. Naviera Vascongada S.A.: Miraflores.
04623---	Seaspan International Ltd.: VT 65. VT 200. VT 201. VT 202. Pacific Barge 6. Pacific Barge 9. Pacific Barge 100. Pacific Barge 101. Seaspan Monarch. Island Exporter. Island Importer. Island Fir. Island Hemlock. Island Spruce. Island Tug 109. Island Tug 106. Island Logger. Island Tug 103. Island Tanker No. 1. Seaspan King. Sudbury II.
04627---	Inland Tugs Co.: Detmar.
04640---	McAllister Lighterage Line, Inc.: McAllister 172. McAllister 173.
04883---	Bumble Bee Seafoods, a Division of Castle & Cooke, Inc.: Betty M.
04933---	The Revilo Corp.: EAC–151.
05097---	Esso Transport Co., Inc.: Esso Brega. Esso Liguria. Esso Portovenere.
05500---	Petroleos Mexicanos: Premex 36. Premex 37.
05520---	Union Carbide Corp.: Jo Anne.
05537---	Empresa Navegacion Mambisa: 10 De Octubre.
05579---	Black Sea Shipping Co. Akademik Jangel. Kapitan Kaminskij.
05617---	Maritima Del Norte S.A.: Mirenchu.
06021---	Gamma Fishing Co., Inc.: Venturous.
06522---	Alioth Navigation Corp.: Navishipper.
06549---	Compagnie Marocaine De Navigation: Tizi N'Test.
06606---	Clio Shipping Co., Ltd.: Alexandros Skoutaris.
06746---	Fukada Salvage K.K.: Sakura Maru.
06764---	Crane Navigation S.A.: Silver Crane.
06801---	Interessentskapet Bakar: Bakar.
06844---	Pioneer Navigation Co. Ltd.: Icon Sea.
06877---	Societe Francaise De Transports Maritimes Paris: Normandie. Saintonge. Dauphine. Franche Comte. Bourgogne. Berry. Touraine. Armagnac. Bearn. Lorraine. Artois. Penruz.
06890---	Mortensen & Lange: Octavus.

Certificate No.	Owner/operator and vessels
06893	Cerro Shipping Co., Ltd.: Athens Day.
06919	General Shipping Co., Inc.: General Lim.
06925	Bibby Bulk Carriers, Ltd.: Herefordshire.
06976	Mariogro Armadora S.A.: Susy.
06984	Sakhalin Shipping Co.: Tumnin.
06986	Melia Shipping Co., Ltd.: Alamar.
06987	Atlantic Marine Industries, Inc.: Tsunami.
06989	Sunlight Shipping Co. S.A.: Irene Lemos.
06990	Livestock Carriers, Inc.: Holstein Express.
06999	Panax Shipping, Ltd.: John P. McGoff.
07004	Livatho Maritime Corp.: Eftychia.
07007	Seven Seas Shipping Co., Ltd.: Medov Spagna.
07008	Medov Lines S.P.A.: Medov Italia.
07009	Skopos Shipping Co. S.A.: Akademos.
07010	Acropolis Shipping Co. S.A.: Akropolis.
07011	Pergamos Shipping Co., Ltd.: Good Mariner.
07016	Riverland Barge Co., Inc.: MV 205. MV 254.
07017	Coquet Shipping Co., Ltd.: Atlantic Phoenix.
07022	Carebeka N.V.: Carebeka VI. Carebeka I. Carebeka V.
07024	Asian Carriers, Inc.: Taipan. Orient Carrier.
07025	Norte Shipping, Inc.: Cap Norte.
07026	Minami Nihon Senpaku K.K.: Erimo Maru.
07028	Albacore Shipping Corp.: Eagle.
07031	Horne Brothers, Inc.: Barge No. 7.
07034	Trias Shipping Co. S.A. (Panama) R.P.: Elmona.
07038	Halcyon Carriers, S.A.: Halcyon Sun.
07041	Primrose Shipping Co., S.A.: Primrose.
07043	International Foods S.A.: Mister A.
07045	Liberian Ruby Transports, Inc.: World Ruby.
07047	Tiger Shipping Co. Ltd.—Famagusta: Tiger.
07048	K/S A/S Lundhav & Co.: Elianne.
07069	The Broken Hill Proprietary Co. Ltd.: Iron Cavalier.
06941	Excelsior Marine Corp.: Noma.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-11198 Filed 7-19-72;8:50 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY; SUPPLY-TECHNICAL ADVISORY TASK FORCE-NATURAL GAS TECHNOLOGY

Agenda for Meeting

Agenda for meeting to be held in conference room 2043 of the Federal Power Commission, 441 G Street NW., Washington, DC, July 24–25, 1972, 9 a.m., presiding: Dr. Paul J. Root, FPC Survey Coordinating Representative and Secretary.

1. Call to order and introductory remarks—Dr. Root.
2. Review of overall progress of the task force—Mr. Lloyd E. Elkins, Director—Supply-Technical Advisory Task Force-Natural Gas Technology.
3. Discussion of economic guidelines—Mr. Robert E. Fullen.
4. Discussion of reserve and permeability studies—Mr. Charles H. Atkinson.
5. Nuclear feasibility and economic studies—Dr. Barney Rubin (alternate for Dr. Edward Teller).
6. Conventional fracturing studies—Mr. J. Frank Wolfe.
7. Consensus computer model studies—Dr. Thomas H. Timmins.
8. Discussion of outline of final report.
9. Other business.
10. Adjournment—Dr. Root.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11138 Filed 7-19-72;8:49 am]

[Project No. 271]

ARKANSAS POWER & LIGHT CO.

Notice of Application for Change in Land Rights

JULY 18, 1972.

Public notice is hereby give that application for change in land rights was filed May 17, 1972, under the Federal Power Act (16 U.S.C. 791a–825r) by the Arkansas Power & Light Co. (correspondence to Mr. W. M. Murphy, vice president, Arkansas Power & Light Co., Ninth and Louisiana Streets, Little Rock, Ark. 72203) in Project No. 271, located on the Ouachita River, in the counties of Hot Springs and Garland, Ark., near the towns and cities of Malvern and Hot Springs.

Applicant proposes to grant an easement to the U.S. Forest Service for the construction and installation of a 4-inch waterline under and across Lake Hamilton Reservoir to serve the Ouachita Civilian Conservation Center. At present, the water supply for the Center consists of two wells which do not have sufficient capacity during periods of heavy use. In addition, the treatment system to process the well water has proven to be both costly and inadequate.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 21, 1972, file with the Federal Power Commission in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11272 Filed 7-19-72;8:53 am]

[Docket No. CI71-185]

CLAY J. CALHOUN

Notice of Petitions To Amend

JULY 13, 1972.

Take notice that on June 15, 1972, Clay J. Calhoun (petitioner), c/o Roger H. Doyle, Esq., Doyle, Smith, Doyle & Watters, 225 Barone Street, New Orleans, LA 70112, filed in Docket No. CI71-185 petitions to amend the order of the Commission heretofore issued in said docket pursuant to section 7(c) of the Natural Gas Act on March 23, 1971, by authorizing the continuation of certain natural gas sales and granting permission and approval to abandon certain natural gas sales, all as more fully set forth in the petitions to amend which are on file with the Commission and open to public inspection.

Petitioner states that by assignments executed on April 5 and April 24, 1972, it acquired as of March 1, 1972, all of Shell Oil Co.'s (Shell) interest in the remaining productive acreage in the Learned Field, Hinds County, Miss., then dedicated under the gas purchase contract between Shell and United Gas Pipe Line Co. (United) on file as Shell's FPC Gas Rate Schedule No. 381. Pursuant to this contract natural gas has been sold by Shell to United. Petitioner seeks authorization to continue the sale of natural gas to United from the well located in section 19, township 4 north, range 3 west, Hinds County, that being the only well now capable of producing gas from the assigned acreage. Petitioner states that his sales to United are estimated at 6,000 Mcf of natural gas per month at 15.025 p.s.i.a.

In addition, petitioner seeks permission and approval to abandon the sales of gas heretofore made by Shell pursuant to its FPC Gas Rate Schedule No. 381 to United from the remaining leases in the Learned Field. Applicant states that none of the wells on the acreage covered by these leases is presently capable of producing natural gas in commercial quantities. Applicant states that in its judgment commercial production

in a number of the wells acquired from Shell could be restored and additional reserves developed through workover and recompletion. Applicant indicates that such a program would entail the expenditure of a considerable amount of money and could only be justified in the event that applicant were assured of receiving at least the area rate approved by the Commission in Opinion No. 607 in the event his efforts proved successful.

Applicant states that the contract comprising Shell's rate schedule provides for a price of 23.0 cents per Mcf of natural gas or the area rate approved by the Commission, whichever is higher. Applicant further states that after deducting a downward Btu adjustment of 1.75 cents United is currently paying applicant at the rate of 21.25 cents per Mcf. Applicant asserts that under United's interpretation of the contract the higher area rate of 25.0 cents per Mcf of natural gas approved in Opinion No. 607 will only become effective when the Commission's opinion is affirmed by the Supreme Court, and then only prospectively from the date of affirmance. Applicant states that while he has offered to undertake, at no extra expense to United, a program aimed at restoring and developing new production in the Learned Field, applicant cannot afford to pay shut-in royalty and delay rentals to hold his leases while awaiting the Supreme Court's affirmance of Opinion No. 607. Applicant states, therefore, that he has no choice but to abandon.

Any person desiring to be heard or to make any protest with reference to said petitions to amend should on or before August 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11134 Filed 7-19-72;8:49 am]

[Docket No. CP72-290]

CITIES SERVICE GAS CO.

Notice of Application

JULY 12, 1972.

Take notice that on June 19, 1972, Cities Service Gas Co. (applicant), Post Office Box 25128, Oklahoma City, OK 73125, filed in Docket No. CP72-290 an application pursuant to sections 7 (b) and (c) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities, and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks permission to abandon and remove approximately 1.5 miles of its National Alfalfa 3-inch pipeline located in Douglas County, Kans., which was constructed in 1964 to serve the alfalfa dehydrator plant owned and operated by the National Alfalfa Dehydrating & Milling Co. (National Alfalfa) near Lakeview, Kans. Applicant states that the gas sales contract between it and National Alfalfa has been canceled because the plant no longer needs natural gas. Applicant also seeks permission to abandon and remove approximately 9 miles of its 16-inch Alliance pipeline located in Caddo and Grady Counties, Okla. Applicant states that at the present time only 265 Mcf of natural gas per day, which it purchases from Southern Gas Co. (Southern), are delivered into the Alliance pipeline and that the proposed construction for which it seeks authorization will end even that limited use. Applicant seeks permission to abandon in place approximately 0.4 mile of 3-inch pipeline in the Craig Storage Field located in Johnson County, Kans. Applicant states that this pipeline, which has not been utilized for several years, is no longer required for storage field operations or to serve any customers and is in such a deteriorated condition that removal is not justified.

To maintain its aforementioned purchase from Southern after the abandonment of the section of the Alliance pipeline, applicant seeks authorization to construct and operate approximately 2.5 miles of 2-inch pipeline from the point of delivery of the natural gas from Southern in Caddo County, Okla., to a point of connection on applicant's 16-inch cement pipeline in Grady County, Okla.

Applicant states that the cost of removing the facilities proposed to be salvaged is $64,700, and the estimated salvage value of those facilities is $75,730. The total cost of the facilities proposed to be constructed is $16,970, which applicant will finance from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application of no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-11141 Filed 7-19-72;8:45 am]

[Docket No. CP72-304]

COLUMBIA GAS TRANSMISSION CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

JULY 13, 1972.

Take notice that on June 30, 1972, Columbia Gas Transmission Corp. (Columbia), 20 Montchanin Road, Wilmington, DE 19807, and Texas Eastern Transmission Corp. (Texas Eastern), Post Office Box 2521, Houston, TX 77001, filed in Docket No. CP72-304 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas and the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants seek authorization to exchange natural gas pursuant to a gas exchange agreement of May 25, 1972. Under the terms and provisions of said agreement, Columbia and Texas Eastern may exchange equivalent volumes of natural gas through mutual dispatching arrangements at various existing points of interconnection between the two systems as described in the agreement. The agreement further provides for exchanges at a proposed interconnection in Fairfield County, Ohio, and at an existing interconnection in Bucks County, Pa. Applicant seeks authorization for the construction of the Fairfield County facility and the expansion of the Bucks County facility and for the operation of both when said construction and expansion are completed. Applicants state that the proposed and expanded points of interconnection are necessary because most of the existing points of interconnection between Columbia and

Texas Eastern are points of delivery from Texas Eastern to Columbia at which Columbia cannot physically make deliveries of natural gas into Texas Eastern's high pressure mainline system. Applicants state that the new and expanded interconnections will constitute convenient points at which Columbia may provide exchange gas to Texas Eastern under the agreement. Applicants assert that all deliveries under such agreement will be made on a gas-for-gas exchange basis.

Applicants state that the estimated costs of the proposed interconnection and the expansion of the existing interconnection are $43,600 and $38,000 respectively. Columbia states that it will finance these costs from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11132 Filed 7-19-72;8:49 am]

[Dockets Nos. RP71-18, RP72-146, etc.]

COLUMBIA GULF TRANSMISSION CO. AND COLUMBIA GAS TRANSMISSION CORP.

Order Accepting Revised Tariff Sheets for Filing Subject to Refund and Further Orders, and Consolidating Proceedings

JULY 13, 1972.

Columbia Gas Transmission Corp. (Columbia) on June 13, 1972, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1.[1] Columbia also filed a motion to place the proposed rate changes in effect on July 14, 1972, or such other date as the underlying increase in rates filed by Texas Eastern Transmission Corp. (Texas Eastern) may become effective in Docket No. RP72-98. Columbia requests the Commission waive certain of the filing requirements of its regulations under the Natural Gas Act and also certain of the requirements of its Order No. 452 issued April 14, 1972, in Docket No. R-406, relating to purchased gas adjustment tariff provisions.

The proposed rate increase would increase Columbia's revenues in three of seven zones by $5,583,510 overall, of which amount the increase in Zone 4 would be $3,074,794, the increase in Zone 6 would be $2,317,310, and the increase in Zone 7 would be $191,406 (approximately 1 percent in each zone and overall), based upon sales volumes for the 12-month period ended April 30, 1972. The proposed increased rates and charges are over and above those in effect subject to refund since April 16, 1971, in Zones 6 and 7 and over those in Zone 4 since April 1, 1972, in Docket No. RP71-18 et al.

Columbia states that the rate increase is necessitated by an increase in the cost of purchased gas due to an increase in rates filed by Texas Eastern which has been suspended until July 14, 1972, by Commission order issued February 11, in Docket No. RP72-98. Columbia states that in its own rate increase case, in Docket No. RP71-18 et al., it has filed a complete cost of service study in compliance with § 154.63 of the regulations, and it has also filed a stipulation and agreement for settlement of those proceedings which contains purchased gas supplier rate change tracking provisions similar to the provisions of Order No. 452. The company states that the method of computing the proposed rate changes conform to these provisions. For these reasons it requests waiver of the requirements of Order No. 452 and submits that it will file the tariff changes required by the order after the Commission has acted upon its application for reconsideration of Order No. 452.

The Commission, on June 13, 1972, issued its order No. 452-A denying applications for rehearing, including Columbia's application for rehearing, of order No. 452. Order No. 452-A provided, inter alia, that the existing purchase gas tracking authority of natural gas companies shall terminate not later than 60 days thereafter, or on August 12, 1972. Accordingly, we shall accept the subject rate filing as proposed by Columbia, subject to refund in the consolidated proceedings in Docket No. RP71-18 et al., and subject to Columbia's filing its PGA tariff clause to become effective on or before August 13, 1972, in accordance with orders Nos. 452 and 452-A.

Copies of this rate increase filing were served upon each jurisdictional wholesale customer, intervener, and interested State commission. The Dayton Power and Light Co., and UGI Corp., timely filed petitions for leave to intervene in Docket No. RP72-146. The two petitioners have been granted intervention in Docket No. RP71-18 et al. In view of our consolidation of these proceedings, such intervention may be deemed to have been granted.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that Columbia's increased rate filing tendered on June 13, 1972, be accepted for filing subject to refund and all orders of the Commission issued in Docket No. RP71-18 et al., and should be consolidated with the proceedings in that docket for purposes of hearing and decision, as hereinafter provided.

(2) Good cause has been shown for granting waiver of the data and material requirements of § 154.63 of the Commission's regulations.

The Commission orders:

(A) The revised tariff sheet tendered by Columbia on June 13, 1972, described above, is hereby accepted for filing, to become effective on July 14, 1972, or on such other date as Texas Eastern's rate increase becomes effective in Docket No. RP72-98; *Provided*, That Columbia's increased rates and charges shall be subject to refund and all orders of the Commission issued in Docket No. RP71-18 et al., and subject to Columbia's filing its Purchased Gas Adjustment Clause (PGA) in its tariff to become effective on or before August 13, 1972, in accordance with Commission orders Nos. 452 and 452-A.

(B) Columbia's request for waiver of the data and material requirements of § 154.63 of the Commission's regulations under the Natural Gas Act is hereby granted.

(C) The issues and proceedings in Docket No. RP72-146 are hereby consolidated with those in Docket No. RP71-18 et al., for purposes of hearing and decision.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11131 Filed 7-19-72;8:49 am]

[1] Fourth Revised Sheet No. 16.

[Docket No. CP72-303]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Application

JULY 13, 1972.

Take notice that on June 28, 1972, Consolidated Gas Supply Corp. (Applicant), 445 West Main Street, Clarksburg, WV 26301, filed in Docket No. CP72-303 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct approximately 1.5 miles of 16-inch pipeline

near Egan, Acadia Parish, La., to connect the onshore terminus of the Western Leg of the Bluewater facilities with Transcontinental Gas Pipe Line Corp.'s (Transco) 8- and 12-inch Acadia Plant Laterals. Applicant states that the proposed facilities are required in order to enable it to accept from Columbia Gulf Transmission Co. (Columbia) approximately 65,000 Mcf per day under a transport arrangement, for which certificate authorization is being sought by Columbia in Docket No. CP72–189, and to deliver this volume of gas to Transco for transportation to Applicant's Appalachian market areas under a transport arrangement for which certificate authorization is being sought by Transco in Docket No. CP72–244.

Applicant estimates the cost of the proposed facilities at $183,512 and proposes to finance its proposal in part from funds on hand and in part from funds to be obtained from its parent corporation, Consolidated Natural Gas Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–11130 Filed 7–19–72;8:48 am]

[Docket No. CS71–179]

HERMAN GEO. KAISER, ET AL.

Notice of Petition for Waiver of Regulations

JULY 12, 1972.

Take notice that on June 29, 1972, Herman Geo. Kaiser (Operator), et al. (Petitioner), 4120 East 51st Street, Tulsa, OK, small producer certificate holder in Docket No. CS71–179, filed a petition for waiver in part of section 157.40(c) of the regulations under the Natural Gas Act (18 CFR 157.40(c)) so as to permit the sale of natural gas under his small producer certificate from reserves acquired in place from large producers, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that he proposes to continue the following sales of natural gas from his own interests and the interests of certain other named persons acquired by the purchase of developed reserves in place from large producers:

Predecessor's rate schedule	Location	Purchaser
Sun Oil Co., FPC gas rate schedule No. 102.	Cordes Unit, Mohler Northeast Field, Meade County, Kans.	Panhandle Eastern Pipe Line Co.
Mobil Oil Corp., FPC gas rate schedule No. 232.	Anna Ruf Unit, Goodwin Field, Ellis County, Okla.	Transwestern Pipeline Co.
Sun Oil Co., FPC gas rate schedule No. 189 and Falcon Seaboard, Inc. et al., FPC gas rate schedule No. 21.	Currey Unit, Hugoton Field, Haskell County, Kans.	Northern Natural Gas Co.

Petitioner states that the subject properties are marginal or close to being marginal and the production therefrom will not justify the time, paperwork, or expense involved in filing separate certificate applications and rate schedules. The estimated average monthly volumes from the Cordes, Anna Ruf, and Currey Units are 70, 250, and 3300 Mcf, respectively. Petitioner states that the Currey Unit produces gas with a high sulphur content, that the former operators had difficulty in selling the gas because the desulphurization unit did not operate properly, and that continuing proper operation of the desulphurization unit is questionable.

Section 157.40(c) provides in part that sales may not be made pursuant to a small producer certificate from reserves acquired by a small producer by purchase of developed reserves in place from a large producer. Petitioner states that he is willing to accept authorization to continue the subject sales at rates not in excess of the applicable area ceiling rates.

Any interested party may submit to the Federal Power Commission, Washington, D.C. 20426, not later than July 31, 1972, views and comments in writing concerning the petition for waiver. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–11142 Filed 7–19–72;8:45 am]

[Docket No. CP72–298]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

JULY 13, 1972.

Take notice that on June 23, 1972, Kansas-Nebraska Natural Gas Co., Inc., 300 North St. Joseph Avenue, Hastings, NE 68901, filed in Docket No. CP72–298 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct and operate 6 miles of 3-inch pipeline on its Genoa, Nebr., lateral. Presently, the Genoa lateral consists of 6 miles of 2-inch pipeline installed on the surface of the ground in country road right-of-way and 3.7 miles of 2-inch buried pipeline. Applicant proposes to replace these exposed portions of pipe with 3-inch buried steel pipeline installed on private right-of-way. Applicant states that it has experienced a continuous growth in winter peak day firm gas requirements to the extent that the 2-inch pipe now creates a severe capacity restriction during periods of peak demand on this lateral, thus requiring a higher discharge pressure at its Grand Island, Nebr., compressor station to compensate for this pressure loss. By this enlargement and replacement, Applicant states that it will increase the reliability of service and provide sufficient pipeline capacity so as to preclude any further enlargements of the Genoa lateral in the foreseeable future.

The total estimated cost of the proposed facilities is $45,000, which the applicant will finance out of current working capital and interim bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required

herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11133 Filed 7-19-72;8:49 am]

[Docket No. E-7746]

KENTUCKY UTILITIES CO.

Notice of Application

JULY 12, 1972.

Take notice that on May 25, 1972, Kentucky Utilities Co. (applicant) filed an application seeking an order pursuant to section 203 of the Federal Power Act authorizing it to dispose of certain facilities of the Company by sale to the United States of America and Tennessee Valley Authority (TVA).

Applicant is incorporated under the laws of the State of Kentucky, with its principal business office at Lexington, Ky., and is engaged in the electric utility business in Central, Southeastern, and Western Kentucky.

The TVA is a corporation organized and existing under the Tennessee Valley Authority Act of 1933, as amended. It owns property, and transacts business in Tennessee, Kentucky, and other States.

The facilities involved in the application consist of 12.07 miles of 69 kv. line extending from the company's Clinton switching station to TVA's airbreak switch located east of Hickman, Ky., and 9.58 miles of kv. line extending from the company's Clinton switching station at Fulton, Ky. The TVA will use the facilities as a part of its transmission system.

The United States of America and Tennessee Valley Authority will pay a consideration of $166,000 for the company's 12.07 miles of 69 kv. transmission lines and $75,000 for the company's 9.58 miles of transmission line.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 31, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petition or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11143 Filed 7-19-72;8:45 am]

[Docket Nos. RI73-3, etc.]

MOBIL OIL CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund

JULY 12, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.[1]

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] See app. A hereto.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI73-3	Mobil Oil Corp	45	20	Tennessee Gas Pipeline Co., (North Government Field, Duval County, Tex., RR. District No. 4).	$5,220	6-12-72	----------	7-14-72	[1] 19.0	[1] 24.0	
	do	96	13	Tennessee Gas Pipeline Co. (Heyser Field, Victoria County, Tex., RR. District No. 2).	29,691	6-14-72	----------	7-16-72	[1] 19.0	[1] 24.0	
RI73-4	Atlantic Richfield Co	39	21	Natural Gas Pipeline Co. of America (Hagist Ranch Field, Duval County, Tex., RR. District No. 4).	300,000	6-15-72	----------	7-17-72	[1] 19.0	[1] 24.0	
	do	40	17	Natural Gas Pipeline Co. of America (Clayton Field, Live Oak County, Tex., RR. District No. 2).	2,950	6-19-72	----------	7-21-72	[1] 19.0	[1] 24.0	

*The pressure base is 14.65 p.s.i.a.

[1] Subject to applicable B.t.u. adjustment.

The question presented here is whether the subject gas is entitled to an area rate of 19.0 cents, which is the rate established in Opinion No. 595, Docket Nos. AR64-2, et al., issued May 6, 1971, for gas sold under contracts dated prior to October 1, 1968, or an area rate of 24.0 cents which applies to contracts dated on or after October 1, 1968. As justification for the proposed 24.0-cent rate, Mobil and Atlantic claim that the gas now being delivered under the subject rate schedules was never committed to the expired contracts included in these rate schedules, and that such gas qualifies as new gas within that term as used in Opinion No. 595. The proposed increases should be suspended for 1 day from the expiration of the statutory notice period, pending determination as to whether the gas involved herein is entitled to the new or old gas price.

There is, therefore, a question of whether the imposed increases should

be suspended pending determination as to whether the gas involved herein is entitled to the old or new gas rates, as set forth in Opinion No. 595; or if in fact the gas now being delivered under the subject rate schedule is new gas, whether a certificate should not be issued to each of the respondents to continue to make the sales of such gas. Consequently, we are not only suspending the proposed increased rates, but shall also issue temporary certificates of public convenience and necessity to Mobil and Atlantic to assure maintenance of service pursuant to section 7(c) of the Act.

In order to resolve the aforementioned question as expeditiously as possible, and to expedite the hearing provided for in ordering paragraph A, supra, a prehearing conference shall be held in accordance with § 1.18(c) of the rules of practice and procedure, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on August 8, 1972, at 10 a.m. (e.d.s.t.) concerning the issues hereinbefore discussed.

A presiding examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall convene the prehearing conference in this proceeding.

The purpose of such conference shall be to provide an opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment, for settlement of these proceedings.

The procedural dates for service of prepared testimony and exhibits and for hearings on the issues herein shall be set by future order of the Commission.

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61–1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate, and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-11125 Filed 7-19-72;8:48 am]

[Docket No. CP72-294]

PENNSYLVANIA GAS AND WATER CO. AND COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

JULY 12, 1972.

Take notice that on June 22, 1972, Pennsylvania Gas and Water Co. (Applicant), 30 North Franklin Street, Wilkes-Barre, PA 18701, filed in Docket No. CP72–294 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Columbia Gas Transmission Corp. (Respondent) to establish an additional delivery point for the sale and delivery to Applicant of its daily contract demand entitlement of natural gas, at the Saylor Avenue meter station (Saylor Avenue) Lucerne County, Pa., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it presently purchases 29,387 Mcf of natural gas per day from Respondent primarily for distribution by Applicant in its Susquehanna Division pursuant to a service agreement dated July 7, 1971. The service agreement provides for delivery points on Respondent's system in Chapman Township, Clinton County, Pa., on the system of Transcontinental Gas Pipe Line Corp. (Transco) north of Muncy in Lycoming County, Pa., and on the system of Transco in Old Lycoming Township, Lycoming County, Pa. Applicant states that at the Muncy and Old Lycoming delivery points the deliveries are made by Transco to Applicant for the account of Respondent. Applicant further states that Transco delivers natural gas to it at these delivery points for Transco's own account. Since both Transco and Respondent sell and deliver natural gas on a firm basis to Applicant, Transco and Respondent entered into an exchange agreement dated July 2, 1968, under which, through mutual dispatching arrangements, they are able to make deliveries to the other by delivering for the account of the other to Applicant. Pursuant to the exchange agreement, deliveries by Transco to Applicant for the account of Respondent are limited to existing delivery points of Transco to Applicant, namely, the Saylor Avenue, Dallas, Wyoming Monument, Muncy, and Old Lycoming meter stations. The exchange agreement also provides that deliveries thereunder are made when agreeable to both Respondent and Transco and that no delivery or redelivery of exchange volumes to Applicant shall be made without its consent. Applicant states that it was instrumental in the formation of the agreement between Transco and Respondent. Applicant indicates that its interest in the exchange came from its desire to achieve maximum possible integration of its divisions through its suppliers in order to enable it to achieve maximum possible utilization of its contract demand for the benefit of all of its customers on all of its systems.

As a result of the exchange agreement, Applicant states that the Saylor Avenue meter station is a delivery point for the sales of natural gas by Respondent to Applicant upon request and at the will of Respondent. Applicant states that although sales by Respondent to it by delivery under the exchange agreement at Saylor Avenue have been made from time to time there have been times when Respondent has refused to make such sales even though all the deliveries by or for the account of Respondent would have been within Applicant's contract demand entitlements. Applicant asserts that these past refusals have shown that it cannot rely upon Respondent to make natural gas available at Saylor Avenue upon request pursuant to the exchange agreement and that it cannot depend on the exchange agreement to achieve integration of its divisions and maximum utilization of its contract demand. Applicant seeks an order of the Commission directing Respondent to establish an additional delivery point for the sale and delivery of its contract demand entitlement at Saylor Avenue due to a great need now for summer period integration of its various gas supplies with its various gas markets because its contract demand entitlements from Respondent during summer months exceed its summer market requirements within present economic reach from the delivery points presently specified in the July 7, 1971, service agreement. Applicant asserts that issuance of the order would eliminate the need for it to go forward with the construction of facilities from Berwick to Nanticoke, Pa., to integrate its systems, estimated to cost $1,400,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to

make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11144 Filed 7-19-72;8:45 am]

[Project 2494]

PUGET SOUND POWER & LIGHT CO.

Notice of Availability of Environmental Statement for Inspection

JULY 12, 1972.

Notice is hereby given that on July 7, 1972, as required by § 2.81(b) of Commission Regulations under Order 415-B (36 F.R. 22738, Nov. 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, Apr. 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for major license filed pursuant to the Federal Power Act for the White River Project No. 2494 located in Pierce County, Wash., near the cities of Auburn, Buckley, and Sumner and the town of Bonny Lake on the White River.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project consists of a diversion dam; an intake with a fish trap; a 7-mile long flowline; a 2,566-acre reservoir with a storage capacity of 46,700 acre-feet; a lined tunnel extending to a forebay; steel penstocks; a powerhouse containing four units with a total capacity of 70,000 kw.; a ½-mile long tailrace; and appurtenant facilities.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415-B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from July 7, 1972. The Commission will consider all response to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11145 Filed 7-19-72;8:47 am]

[Project No. 2495]

PUGET SOUND POWER & LIGHT CO.

Notice of Availability of Environmental Statement for Inspection

JULY 12, 1972.

Notice is hereby given that on December 7, 1970, as required by § 2.81(b) of Commission regulations under Order 415-B (36 F.R. 22738, Nov. 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, Apr. 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for major license filed pursuant to the Federal Power Act by the Puget Sound Power & Light Co. for the Electron Project No. 2495 located on the Puyallup River in Pierce County, Wash., near the towns of Kapowsin and Orting.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project consists of a 12-foot high, 200-foot long timber dam; a concrete intake structure; a 10.1-mile long wooden flume; a forebay; four penstocks; a powerhouse with four generating units of 25,500 kw. total capacity; public picnic and overlook areas.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415-B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from July 10, 1972. The Commission will consider all response to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11146 Filed 7-19-72;8:47 am]

[Dockets Nos. E-7706, E7750]

SIERRA PACIFIC POWER CO.

Order Providing for Investigation and Hearing, Consolidating Proceedings, Accepting Late Filing and Granting Intervention

JULY 14, 1972.

Sierra Pacific Power Co. (Sierra), on January 27, 1972, filed revised tariff sheets in its FPC Electric Tariff, original volume No. 1, proposing to increase the rates and charges in Rate Schedules R-1 and R-2 of its tariff, and also proposing to include a new fuel adjustment clause in the tariff. The revised tariff sheets would result in an annual increase in revenues of $324,208 (40.7 percent) from its four existing wholesale customers, to become effective on April 1, 1972.[1] The Commission by order issued March 31, 1972, in Docket No. E-7706, provided for hearing and suspended the revised tariff sheets until September 1, 1972.

Sierra, on April 3, 1972, tendered for filing its agreement dated February 24, 1971,[2] which has been designated FPC Electric Rate Schedule No. 11, in Docket No. E-7750. Pursuant to the new agreement, Sierra will provide to Mount Wheeler Power, Inc. (Mount Wheeler), a new customer, transmission services (power purchased by Mount Wheeler from Bureau of Reclamation) commencing April 1, 1972, and also firm, wholesale power supply commencing around October 1972.

Under the provisions of the agreement, Mount Wheeler would be served upon the construction and operation of a portion of Sierra's new 230 kv. Utah-Fort Churchill transmission line from the eastern border of Nevada to Ely, Nev., Station, and to Diamond Valley Station, in eastern Nevada. At the Nevada border, Sierra's new line would interconnect with newly constructed facilities of Utah Power & Light Co. (UPL).[3] The sale of firm power by Sierra to Mount Wheeler would be paid for in accordance with Sierra's FPC Rate Schedule R-2 (in effect since Feb. 1, 1967) and "any lawful amendments or supplements" thereto.

The rate filing tendered on April 3 is deficient in that it does not contain the revenues and costs associated with either the new facilities and new transmission service or with the sales of firm power, as required in Commission regulations under the Federal Power Act, § 35.12. Moreover, the January 27 rate filing is deficient under § 35.13 of the regulations in that the new facilities and the sales of power to Mount Wheeler under Rate Schedule R-2 are not included in the cost of service and revenue submitted in support of the proposed increase in that rate schedule in Docket No. E-7706 which is to become effective subject to

[1] R-1 customers: City of Fallon, Nev., and Pacific Gas & Electric Co., R-2 customers: California Pacific Utilities Co., and Truckee-Donner Public Utility District.

[2] The submitted agreement bears a certificate of concurrence by Rural Electrification Administration, pursuant to terms of an REA loan contract.

[3] UPL's interconnection agreement, designated FPC Electric Rate Schedule No. 108, was tendered for filing on Feb. 25, 1972. The agreement recites that it will provide for economies through better use of facilities and makes provision for the sale to Sierra of firm power as well as for exchange of power and the transmission of power purchased by Mount Wheeler from the Bureau of Reclamation.

refund on September 1, 1972. Indeed, the submitted data does not provide the basis for determining whether Mount Wheeler should or should not receive service under Rate Schedule R–2 of Sierra's tariff.

Mount Wheeler, on June 19, 1972, filed a petition for leave to intervene out of time in the proceedings in Docket No. E–7706. The Commission's notice of the proposed rate increase published in the FEDERAL REGISTER called for such petitions to be filed on or before March 15, 1972. Mount Wheeler's petition recites that it has entered into contracts for the supply of power with Sierra and with the U.S. Bureau of Reclamation, and that within 60 days it will commence receiving power from Sierra under the aforementioned contract dated February 24, 1971, which provides for transmission service and for the purchase of firm electric service, the latter service being under Sierra's FPC Rate Schedule R–2.

Mount Wheeler's petition, inter alia, also indicates that upon the basis of negotiations with Sierra, it had anticipated the R–2 rates would be increased by 12.5 percent, not 40.7 percent. The petition further states that the portion of Sierra's system to be used to supply Mount Wheeler is not interconnected with Sierra's existing system; and asserts that the factors upon which Sierra relies for the rate increase are not applicable to service to it. Mount Wheeler, therefore, requests that Sierra's rate increase be denied, and in support of its late filing for intervention, Mount Wheeler states that it is in its initial and formative years of operation and its officers were unaware of the Commission's publication of notice of the rate filing and the date for interventions.

Sierra on June 26, 1972, filed an answer to Mount Wheeler's petition, denying certain of Mount Wheeler's allegations, and requesting either that Mount Wheeler be denied intervention, or that the Commission permit Sierra to amend its application for the rate increases.

Upon review and analysis of the rate increase filing on January 27 and initial service filing on April 3, Mount Wheeler's petition to intervene and Sierra's answer, it appears that the rates and charges contained in the two filings may be excessive; may place an undue burden upon ultimate consumers; and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful within the meaning of the Federal Power Act. Accordingly, the procedure we have prescribed below will not only permit Sierra to amend its application for the rate increase in Docket No. E–7706, but it will also require Sierra to amend its cost of service, as allocated to all classes of transportation and sales of energy, and to include the estimated revenues associated with such new services to Mount Wheeler. Such cost of service evidence should reflect costs both individually and by rate groups. Sierra, under § 35.1(c) of the regulations, upon invocation of the wheeling charge and the annual 1-percent escalation provisions, is required to make timely rate change filings.

The Commission finds: (1) It is necessary and appropriate in the public interest and to aid in the enforcement of the provisions of the Federal Power Act, that: (i) Sierra's rate filing on April 3, 1972, of its FPC Electric Rate Schedule No. 11 be accepted for filing subject to investigation and hearing with respect to the rates and charges therein contained; (ii) that an investigation and hearing be instituted to determine the lawfulness of the rates and charges contained in Sierra's FPC Electric Tariff as proposed to be amended in Docket No. E–7706 and of the lawfulness of any rate, charges, or classification, demanded, observed, charged, or to be charged and collected by Sierra for all transmission services and sales of electric energy subject to the jurisdiction of the Commission, including the lawfulness of its rules, regulations, practices, and contracts, upon and after commencement of service to Mount Wheeler as proposed in Docket No. E–7750; and (iii) that the issues in Docket No. E–7750 be consolidated for purposes of hearing and decision with the issues in Docket No. E–7706.

(2) The participation of Mount Wheeler Power, Inc., in these consolidated proceedings may be in the public interest.

The Commission orders: (A) Sierra's FPC Electric Rate Schedule No. 11, as filed on April 3, 1972, is accepted for filing effective as of May 15, 1972, subject to investigation, hearing, and further order.

(B) Pursuant to the authority of the Federal Power Act, particularly including, but not limited to, sections 205 and 206 thereof, and the Commission's rules of practice and procedure, and regulations under the Federal Power Act (18 CFR, Ch. I), an investigation is hereby instituted and a public hearing shall be held, before a presiding examiner to be designated, commencing with a prehearing conference on September 6, 1972, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Sierra's FPC Electric Rate Schedules and its FPC Electric Tariff, as proposed to be amended in these proceedings. The procedure prescribed in paragraph (C) of the Commission's order issued March 31, 1972, in Docket No. E–7706, is hereby suspended and made subject to the discretion of the presiding examiner.

(C) (i) Sierra shall on or before August 18, 1972, amend its rate filing and case-in-chief in Docket No. E–7706, so as to reflect its total systemwide cost of service, including estimated costs and revenues associated with its new 230 kv. Utah-Fort Churchill transmission line in the form and manner prescribed in § 35.13; (ii) Sierra shall provide the data, studies and material required in § 35.12 of the Commission's regulations under the Federal Power Act with respect to its initial service agreement with Mount Wheeler contained in its FPC Electric Rate Schedule No. 11; and (iii) not less than 30 days prior to commencing sales for resale of electric energy under its Rate Schedule R–2 shall submit the currently effective revised tariff sheets applicable to that rate schedule for incorporation in its FPC Electric Rate Schedule No. 11.

(D) The proceedings and issues in Docket No. E–7750 are hereby consolidated for purposes of hearing and decision with the proceedings and issues in Docket No. E–7706.

(E) Mount Wheeler is hereby permitted to intervene in these consolidated proceedings, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting the rights and interests specifically set forth in Mount Wheeler's petition to intervene: And, *provided, further,* That the admission of such intervenor shall not be construed as recognition that Mount Wheeler might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) The issuance of this order shall constitute full notice and publication of Sierra's filing on April 3, 1972, of its FPC Electric Rate Schedule No. 11.

(G) Any person desiring to be heard or to protest Sierra's filing of its FPC Electric Rate Schedule No. 11, should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 11, 1972. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Copies of Sierra's filing of FPC Electric Rate Schedule No. 11 are on file with the Commission and are available for public inspection.

By the Commission.

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

[FR Doc.72-11136 Filed 7-19-72;8:49 am]

[Dockets Nos. RI72-240, etc.]

SHELL OIL CO., ET AL.

Order Consolidating Proceedings and Granting Interventions

JULY 12, 1972.

On May 12, May 22, and June 2, 1972, Shell Oil Co., Tenneco Oil Co., and Continental Oil Co. filed in Dockets Nos. RI72–240, RI72–251, and RI72–263, respectively, petitions for waiver of §§ 154.111(a) and 154.111(c)(2) of the Commission's regulations under the Natural Gas Act. In each instance, the petitioners seek authorization to charge a base rate in excess of the Texas Gulf Coast area ceiling rate for a sale of natural gas from acreage in the McAllen

Ranch Field, Hidalgo County, Tex. (Texas Railroad District No. 4).

The purchaser of the respective sale of natural gas, in each instance, is South Texas Natural Gas Gathering Co. (South Texas).

The Commission notes that there exists an interrelationship between the three above-described proceedings and concludes that their ultimate disposition would best be accomplished in a consolidated proceeding. The Commission therefore shall consolidate Dockets Nos. RI72-240, RI72-251 and RI72-263.

Notice of receipt of the application in Docket No. RI72-240 was issued on May 31, 1972, and was published in the FEDERAL REGISTER on June 7, 1972, at 37 F.R. 11380. June 20, 1972, was set as the final date for filing protests and petitions to intervene. Petitions to intervene were filed by the following parties:

Mobil Oil Corp.
South Texas Natural Gas Gathering Co.
The Public Service Commission for the State of New York.
The Philadelphia Gas Works Division of UGI Corp.
Consolidated Edison Co. of New York, Inc.
Transcontinental Gas Pipe Line Corp.
The Brooklyn Union Gas Co.

Notice of receipt of the application filed in Docket No. RI72-251 was issued on June 19, 1972. July 17, 1972, was set as the final date for filing protests and petitions to intervene. Petitions to intervene were filed by Transcontinental Gas Pipe Line Corp. and Philadelphia Gas Works Division of UGI Corp.

Notice of receipt of the application filed in Docket No. RI72-263 was issued on June 27, 1972. July 24, 1972, was set as the final date for filing protests and petitions to intervene. Petitions to intervene were filed by the following parties:

Transcontinental Gas Pipe Line Corp.
The Brooklyn Union Gas Co.
Philadelphia Gas Works Division of UGI Corp.

Having reviewed the petitions to intervene, we are convinced that the petitioners all have sufficient interest in these proceedings to warrant intervention.

The Commission finds:

(1) It is necessary and appropriate that the proceedings in the above-named applications be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in these consolidated proceedings in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

(A) Dockets Nos. RI72-240, RI72-251, and RI72-263 are consolidated for purposes of hearing and disposition.

(B) The above-named petitioners are permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene: And, *provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

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

[FR Doc.72-11147 Filed 7-19-72;8:47 am]

[Project 2535]

SOUTH CAROLINA ELECTRIC & GAS CO.

Notice of Application for Approval of Easements

JULY 13, 1972.

Public notice is hereby given that application for approval of easements was filed May 4, 1972, under the Federal Power Act (16 U.S.C. 791a-825r) by the South Carolina Electric & Gas Co. (correspondence to: Mr. George H. Fischer, Vice President and General Counsel, South Carolina Electric & Gas Co., Post Office Box 764, Columbia, SC 29202) in Project No. 2535, known as the Steven Creek project, located on the Savannah River in the vicinity of Evans and Appling, Columbia County, Ga.; and Edgefield, in Edgefield County, S.C.

Applicant requests approval for granting of easements to the Board of Commissioners of Roads and Revenue of Columbia County, Ga. (Grantee) over lands located within the boundaries of the project and its storage reservoir. The purpose of the easements is to facilitate (1) the construction by the grantee of a water main and a raw water intake station, and (2) the taking of water from the reservoir for use by the county in its water distribution systems. The proposal will affect approximately 0.1 acre of project lands. It is presently anticipated that the county will draw not more than 10 million gallons of water per day. This drawdown, as stated in the application, will have minimal effect on the storage capacity of the reservoir, which is approximately 5 billion gallons of water.

Any person desiring to be heard or to make protest with reference to said application should on or before August 9, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-11135 Filed 7-19-72;8:49 am]

[Docket No. RP72-131]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Accepting Revised Tariff Sheet for Filing and Permitting Tracking Rate Increase To Become Effective

JULY 13, 1972.

On May 30, 1972, Transcontinental Gas Pipe Line Corp. (Transco) filed First Revised Sheet No. 5 to its FPC Gas Tariff, First Revised Volume No. 1, relating to Rate Schedule No. S-2, and which provides for a $833,039 tracking rate increase to be effective as of July 14, 1972, the date to which its supplier (Texas Eastern Transmission Corp.) Rate Schedule X-28, is under suspension in Docket No. RP72-98.[1]

Transco's Rate Schedule S-2 covers underground storage service to seven customers by means of a purchase by Transco from Texas Eastern of an identical storage service under Texas Eastern's Rate Schedule X-28. The level of rate under Transco's Rate Schedule S-2 is identical to that paid by Transco to Texas Eastern under Rate Schedule X-28.

Transco does not have outstanding tracking authority to track changes in its S-2 rate schedule. However, the filing continues the historical relationship between Transco's S-2 and Texas Eastern's X-28 rate schedules.

Transco requests that the revised tariff sheet be permitted to be effective without suspension. Transco states that if the filing is accepted and permitted to become effective as proposed, it agrees to pass on all refunds and rate reductions to its customers under Rate Schedule S-2, which are applicable to purchases under Texas Eastern's Rate Schedule X-28.

No protests or petitions to intervene with respect to the tender have been received.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the aforementioned revised tariff sheet be accepted for filing and permitted to become effective as hereinafter provided.

The Commission orders:

(A) First Revised Tariff Sheet No. 5 to Transco's FPC Gas Tariff, First Revised Volume No. 1, is hereby accepted for filing to be effective July 14, 1972, concurrent with the effective date Texas Eastern's Rate Schedule X-28 in Docket No. RP72-98 subject to the terms and conditions of this order.

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[1] Commission order issued Feb. 11, 1972, in Docket No. RP72-98, suspended Texas Eastern's systemwide rate increase filing until July 14, 1972.

(B) Transco shall make refunds and file rate reductions to its Rate Schedule S–2 consistent with any findings and orders in Docket No. RP72–98 as such are applicable to Rate Schedule X–28.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–11137 Filed 7–19–72;8:49 am]

FEDERAL RESERVE SYSTEM

CITIZENS BANCORP

Order Approving Acquisition of Bank

Citizens Bancorp, Vineland, N.J., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to Citizens National Bank of South Jersey, Bridgeton, N.J. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of voting shares of Bank. Accordingly, the proposed acquisition is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with deposits of about $54 million, representing approximately 0.3 percent of total deposits of commercial banks in New Jersey, and is the smallest multibank holding company in the State.[1] Acquisition of Bank (deposits of about $17 million) would increase applicant's share of deposits in the State by only about one-tenth of 1 percentage point and would not alter its ranking.

Bank is the smallest organization operating in the Vineland-Millville-Bridgeton area with 3.3 percent of area deposits. Although one of applicant's subsidiary banks is located in this area and controls 5 percent of area deposits, there is little existing competition between this bank, or any of applicant's other subsidiary banks, and Bank. Three of the banks competing in the Vineland-Millville-Bridgeton area control over $200 million in deposits each, and four of the banks are affiliated with three of the six largest bank holding companies in New Jersey. It appears that there is little likelihood of substantial competition developing in the future between Bank and any of applicant's present subsidiary banks. Consummation of the proposal would have no adverse effects on existing or potential competition and may create more effective competition for the larger organizations in the market.

Considerations relating to the financial condition, managerial resources, and prospects of applicant, its subsidiary banks, and Bank are generally satisfactory, and are consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served lend weight for approval of the application, since applicant plans to provide overdraft checking privileges and data-processing services which are not presently available to customers of Bank. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and 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 effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Philadelphia pursuant to delegated authority.

By order of the Board of Governors,[2] effective July 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72–11148 Filed 7–19–72;8:47 am]

[1] Banking data are as of Dec. 31, 1971, and reflect holding company formations and acquisitions approved by the Board through May 31, 1972, and include the Board's approval of this date of applicant's acquisition of the First National Bank of Marlton, Marlton, N.J.

[2] Voting for this action: Chairman Burns and Governors Robertson, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Governor Mitchell.

CITIZENS BANCORP

Order Approving Acquisition of Bank

Citizens Bancorp, Vineland, N.J., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the successor by merger to The First National Bank of Marlton, Marlton, N.J. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of voting shares of Bank. Accordingly, the proposed acquisition is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls two banks with deposits of about $33 million, representing approximately 0.2 percent of total deposits of commercial banks in New Jersey and is the smallest multibank holding company in the State.[1] Acquisition of Bank (deposits of about $21 million) would increase applicant's share of the deposits in the State by only about one-tenth of 1 percentage point and would not alter its ranking.

There is little existing competition between applicant and Bank, though one of applicant's two banking subsidiaries is located in the Camden area as is Bank. Neither Bank nor this subsidiary is a significant factor in the Camden area, with market shares of 1.2 and 0.6 percent, respectively, and the combination of these two banks would still leave applicant ranking only as the 11th largest banking organization in the Camden area. There is little likelihood of substantial future competition developing between this subsidiary and Bank due to the large number of intervening banks, New Jersey's branching laws, and the somewhat limited resources of applicant's subsidiary and Bank. Consummation of the proposal would be consistent with approval of the application.

Considerations relating to the financial condition, managerial resources, and prospects of applicant and its subsidiary banks are generally satisfactory. On the other hand, Bank has shown a poor operating history and a lack of management continuity. Affiliation by Bank with applicant should help to alleviate these problems and provide for a strengthened institution. Applicant has already assisted Bank in obtaining additional capital which was strongly required. Considerations relating to these factors lend strong weight for approval of this application. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and 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 effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Philadelphia pursuant to delegated authority.

By order of the Board of Governors,[2] effective July 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72–11149 Filed 7–19–72;8:47 am]

[1] Banking data are as of Dec. 31, 1971, and reflect holding company formations and acquisitions approved by the Board through May 31, 1972.

[2] Voting for this action: Chairman Burns and Governors Robertson, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Governor Mitchell.

EQUIMARK CORP.

Proposed Acquisition of Assets of Six Offices of First Provident Company, Inc.

Equimark Corp., Pittsburgh, Pa., 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 through its wholly owned subsidiary, Atlantic Management Corp., Silver Spring, Md., all the assets of six offices, located in Maryland and Virginia, of First Provident Co., Inc., Sanford, N.C. Notice of the application was published on June 30, 1972, in The Daily Banner, a newspaper circulated in Cambridge, Md.; on July 4, 1972, in the Bristol Herald Courier, a newspaper circulated in Bristol, Va.; on June 28, 1972, in The Star Democrat, a newspaper circulated in Easton, Md.; on June 30, 1972, in The News-Post, a newspaper circulated in Frederick, Md.; on July 3, 1972, in Evening Capital, a newspaper circulated in Annapolis, Md.; and on July 2, 1972, in The Daily Times, a newspaper circulated in Salisbury, Md.

Applicant states that Atlantic Management Corp. would engage in the following activities at those six offices: Making or acquiring, for its own account or for the account of others, loans and other extensions of credit and servicing loans and other extensions of credit, and making available to its borrowers at each borrower's option group credit life and accident and health insurance covering the balance of the borrower's indebtedness to the subsidiary lender. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 14, 1972.

Board of Governors of the Federal Reserve System, July 13, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11180 Filed 7-19-72;8:50 am]

FIRST AT ORLANDO CORP.

Acquisition of Bank

First at Orlando Corp., Orlando, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of North Semoran First National Bank, Fern Park, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 4, 1972.

Board of Governors of the Federal Reserve System, July 13, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11150 Filed 7-19-72;8:47 am]

HMT CORP.

Order Approving Formation of Bank Holding Company

HMT Corp., Miami, Fla., 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 80 percent or more of the voting shares of each of Bank of Perrine, Perrine, Fla. (Perrine Bank), and Bank of Cutler Ridge, Cutler Ridge, Fla. (Cutler Ridge Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is an inactive corporation recently organized under the laws of the State of Florida for the purpose of acquiring Perrine Bank ($17.3 million in deposits) and Cutler Ridge Bank ($5.6 million in deposits). (All banking data are as of December 31, 1971, adjusted to reflect holding company formations and acquisitions approved through June 30, 1972.) Applicant proposes to acquire shares of the subject banks in accordance with the plan of reorganization, directly, through an exchange of stock, and indirectly through the acquisition of 90 percent or more of the outstanding shares of Florida Shares, Inc., a Florida corporation which owns stock of the Perrine and Cutler Ridge Banks. It is proposed that, subsequently, Florida Shares, Inc., will be merged into applicant under the name "Florida Shares, Inc."

As a result of consummation of the proposal, applicant would rank as the 26th largest bank holding company in the State through control of 0.14 percent of aggregate commercial bank deposits in the State and would become, in terms of deposits, the 11th largest of the 13 bank holding companies operating in Dade County where both subject banks are located, and, together, control 0.7 percent of the commercial bank deposits in that market. Notwithstanding the fact that their service areas overlap, the subject banks do not presently engage in meaningful competition nor are they likely to do so in the future in view of the close affiliation between them. (The principal stockholders of Perrine Bank organized Cutler Ridge Bank in 1964; currently, nine directors are common to both banks; and investment policies of both banks are identical and handled by common management.) It is the Board's judgment that approval of the formation would have no adverse effects on competition.

Applicant proposes to increase substantially Perrine Bank's capital funds. In the light of this consideration, the financial condition and managerial resources of the proposed group are regarded as generally satisfactory, and prospects for the system appear favorable. Applicant also proposes to introduce trust services at Perrine Bank, and it is expected that the community will benefit from this additional source of banking services. Considerations relating to the convenience and needs of the area to be served are consistent with, and lend some support toward, approval of the application. It is the Board's judgment that the proposed 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 effective date of this order or (b) later than 3 months after the effective 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] effective July 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-11151 Filed 7-19-72;8:47 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Governor Mitchell.

NORTH AMERICAN MORTGAGE CORP.

Order Approving Acquisition of a Bank

North American Mortgage Corp., St. Petersburg, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 23.9 percent of the voting shares of The American Bank, St. Petersburg, Fla. (Bank), a proposed new 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 § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls one bank, the American National Bank of Clearwater, Clearwater, Fla. (American National), with deposits of $11.2 million, representing 0.1 percent of total commercial bank deposits in the State. (Banking data are as of June 30, 1971.) Approval of the acquisition of Bank would not presently increase applicant's deposits since Bank is a proposed new bank. Moreover, applicant is one of the smallest banking organizations in the State of Florida.

Bank's location is in the fastest growing area in greater St. Petersburg. The relevant market appears to be somewhat underbanked. American National is located 19 miles from the proposed site of the Bank, with a number of banks and geographical barriers in the intervening area. The Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

The financial and managerial resources and future prospects of applicant, its subsidiary bank, and Bank are regarded as generally satisfactory and consistent with approval. Considerations relating to the convenience and needs of the community lend some weight in favor of approval since Bank will be able to provide a convenient, additional service for banking in the fastest growing area in greater St. Petersburg. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

Applicant is a one-bank holding company that is engaged in certain mortgage banking and insurance agency activities. These activities appear to fall within the proviso in section 4(a)(2) of the Bank Holding Company Act, as amended, the so-called "grandfather" provision. The approval herein neither provides authority to applicant to continue in the nonbank activities nor to retain nonbank shares nor requires the applicant to modify or terminate said activities or holdings. However, consummation of the proposal herein is subject to the continuing authority of the Board to require modification or termination of such activities or holdings (within a period no shorter than 2 years), if the Board determines that the continued combination of banking and nonbanking interests is likely to have an adverse effect on the public interest.

The provision of any credit, property, or services by the holding company or any affiliate thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under § 106 of the Bank Holding Company Amendments of 1970. The nonbanking activities of applicant shall not be altered in any significant respect from those engaged in at the time of the filing of the application herein nor shall they be provided at any location other than as described in said application, except upon compliance with the procedures of § 225.4(b)(1) of Regulation Y; and no merger, or consolidation, or acquisition of assets other than in the regular course of business, to which applicant or any affiliate thereof is a party, shall be consummated without prior Board approval.

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 effective date of this order or (b) later than 3 months after the effective date of this order, and provided further that (c) The American Bank shall be open for business not later than 6 months after the effective date of this order. The periods described in (b) and (c) hereof may be 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] effective July 13, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-11152 Filed 7-19-72;8:47 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The material contained in section 632.12 is considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore this section as revised July 17, 1972, is set forth in full as follows:

SEC. 632.12—*Enlistment of registrants ordered for induction.* 1. Whenever a local board receives a DD Form 53 or a DD Form 44 evidencing that one of its registrants to whom an induction order has been issued, has been enlisted or appointed after June 30, 1972, in the Armed Forces of the United States, including the reserve components thereof, and the date of enlistment or appointment is at least 10 days prior to his scheduled reporting date for induction, it shall reopen his classification and cancel his order to report for induction.

2. In the case of a registrant whose induction reporting date has been postponed under any provision of this chapter, the enlistment or appointment will be valid if it is accomplished at least 10 days prior to the rescheduled reporting date. If such a registrant's induction reporting date has not yet been rescheduled, his enlistment or appointment will also be valid. No enlistments or appointments of any kind are permitted after the 10th day prior to the induction reporting date.

Example: Joseph Schultz is scheduled to report for induction on July 20. He may enlist or be appointed in any of the Armed Forces, including the reserve components, through the 10th of July. After the 10th of July, Joseph could not be enlisted in any program, and must report for induction on July 20 as ordered.

4. Any enlistments which are in conflict with the provisions of this section shall be reported by the local board to the State Director.

BYRON V. PEPITONE,
Acting Director.

JULY 17, 1972.

[FR Doc.72-11196 Filed 7-19-72;8:51 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 920; Class B]

ARIZONA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of June 1972, because of the effects of certain disasters damage resulted to homes and business property located in the State of Arizona;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Maricopa, Pima, and Pinal Counties, Ariz., suffered damage or destruction resulting from tornadoes beginning about June 22, 1972.

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, Sheehan, and Bucher.

Voting against this action: Governor Brimmer, on the basis of principles previously discussed in his dissenting statement of July 7, 1972, in connection with the Board's order approving the application of First National City Corp. to acquire the successor by merger to The National Exchange Bank of Castleton-on-Hudson.

Absent and not voting: Governor Mitchell.

OFFICE

Small Business Administration District Office, 112 North Central Avenue, Phoenix, AZ 85004.

2. Disaster offices will be established as the need indicates.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subseqeunt to October 31, 1972.

Dated: July 6, 1972.

CLAUDE ALEXANDER,
Associate Administrator for Operations and Investment

[FR Doc.72-11156 Filed 7-19-72;8:50 am]

Class B]

WEST VIRGINIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of June 1972, because of the effects of certain damage resulted to residences and business property located in the State of West Virginia;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property situated in the counties of Brooke, Barbour, Berkeley, Greenbrier, Hampshire, Hancock, Hardy, Jefferson, Marshall, Monongalia, Monroe, Morgan, Ohio, Preston and Wetzel, W. Va., suffered damage or destruction resulting from extensive flooding as a result of Hurricane Agnes, beginning about June 21, 1972.

OFFICES

Small Business Administration District Office, 109 Third Street, Clarksburg, WV 26301.
Small Business Administration Branch Office, U.S. Courthouse and Federal Building, Room 3410, 500 Quarrier Street, Charleston, WV 25301.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1972.

Dated: July 7, 1972.

CLAUDE ALEXANDER,
Associate Administrator for Operations and Investment.

[FR Doc.72-11157 Filed 7-19-72;8:50 am]

TARIFF COMMISSION

[AA1921-95]

HAND PALLET TRUCKS FROM FRANCE

Determination of No Injury or Likelihood Thereof

JULY 17, 1972.

On April 17, 1972, the Tariff Commission received advice from the Treasury Department that hand pallet trucks from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirement of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA 1921-95 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was scheduled to be held on June 13, 1972.[1] On petition from the only firm scheduled to appear, the hearing was postponed by 1 week; it was held on Tuesday, June 20, 1972.

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[2] determined unanimously that an industry in the United States is not being and is not likely to be injured, or is not prevented from being established, by reason of the importation of hand pallet trucks from France covered by the aforementioned determination of the Treasury Department.

Statement of reasons. Hand pallet trucks are designed to move materials (on pallets or similar devices) horizontally in limited areas. They have two forks that are designed to fit into and/or under pallets; they are designed to carry maximum loads of from 2,000 to 6,000 pounds; and they are provided with a hydraulic system that lifts the forks by 4 to 6 inches. As their name implies, hand pallet trucks are designed to be pushed by hand rather than being self-propelled. Other types of materials handling equipment are required for moving materials long distances or for lifting them higher than 6 inches. These other types of equipment are far more costly than hand pallet trucks and are not competitive with them.

The industry. We have determined that the industry herein considered consists of those facilities in the United States used in the production of hand pallet trucks. During the period 1967-71 there were as many as 16 domestic producers of such articles. In 1969, over a year prior to the period the Treasury Department found LTFV sales to occur (December 1970-April 1971) the number of firms engaged in the production of hand pallet trucks declined from 15 to 14. This decline occurred during a period of increasing imports but not during the period the Treasury Department found LTFV sales. One indication of the current health of the U.S. industry is that during the first half of 1972, although one additional marginal producer of hand pallet trucks terminated its production, a new company began the production of hand pallet trucks in the United States. We note that neither the complainant (a firm that imports hand pallet trucks from Ireland) nor any U.S. producer testified at the public hearing held in connection with this investigation. Moreover, no briefs or formal statements were filed by any representative of the U.S. industry to indicate that a U.S. industry was being injured or was likely to be injured by the LTFV imports.

The U.S. market. Annual apparent U.S. consumption of all hand pallet trucks generally increased during 1967-71 despite a temporary decline in 1970, as shown in the following tabulation.

Hand pallet trucks: Apparent U.S. consumption, 1967-71

Year	*Total consumption (Quantity in units)*
1967	26,204
1968	33,448
1969	38,452
1970	35,622
1971	38,811

Apparent consumption of standard models of hand pallet trucks having a capacity of 4,000 to 4,999 pounds (the only types that were imported from France or sold at LTFV in the United States) accounted for more than half of total apparent consumption each year, and increased annually throughout the period. During 1967-71, all of the major U.S. producers of hand pallet trucks increased their annual shipments. In 1971, when LTFV sales were found to have occurred in 4 months, only four U.S. producers reported lower shipments than in the previous year. Of equal significance, those four producers who experienced declining shipments in 1971 had consistently reported declining sales each year since 1967. Moreover, for those firms, the rate of decline in 1971 was less than it had been in earlier years, prior to the LTFV sales.

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[1] Notice of the Commission's investigation and hearing was published in the FEDERAL REGISTER of Apr. 25, 1972 (37 F.R. 8137).

[2] Commissioner Leonard was absent; Commissioner Young did not participate in the decision.

Pricing practices and prices. Both domestically produced and imported hand pallet trucks are sold to dealers throughout the United States. Virtually all of the hand pallet trucks are sold to dealers, f.o.b. sellers' shipping point in the United States, at a discount from the manufacturers' or importers' suggested retail (list) price. The dealers, most of whom offer a complete line of materials handling equipment, including such high ticket items as powered forklifts, stackers and loaders, are free to ask their own prices for hand pallet trucks.

More than 95 percent of the hand pallet trucks sold in the United States are of "standard" sizes (i.e., 32-, 36-, 42-, and 48-inch fork lengths, and 20½- or 27-inch truck widths). Prices charged by individual sellers for standard-size hand pallet trucks are usually uniform for a given lifting capacity. The price distinctions are invariably on the basis of lifting capacity (i.e., higher lift capacity hand pallet trucks command higher prices than those with lower lift capacities).

Net prices to dealers by importers and domestic producers of hand pallet trucks having a capacity of 4,000–4,999 pounds, f.o.b. sellers' shipping points were compared for the period 1967–71. The comparisons showed that prices, on the whole, either remained constant or increased throughout the period. Several domestic producers and importers reported price increases during 1971 (the year of maximum LTFV sales). Thus, LTFV imports did not cause any price depression in the U.S. marketplace. The comparison showed that the prices received by the importers of the LTFV merchandise were higher than those received by any of the major U.S. producers and all but one of the other importers for virtually identical hand pallet trucks. Seven U.S. producers and one U.S. importer reported that they received higher prices than did the importer of the LTFV merchandise. In each of these cases the French importer enjoyed a margin of underselling substantially in excess of the relatively insignificant margin of dumping.

U.S. imports from France and LTFV imports. U.S. imports of hand pallet trucks from France began prior to 1967 and continue to the present time. These imports increased substantially in 1968 and 1969 but held about constant in 1970 and 1971. Information from the Department of the Treasury indicates that LTFV sales began in December 1970 and did not exist prior to that time. It also indicated that such sales accounted for 100 percent of imports from France from that time through April 1971, the end of the period considered by Treasury. Information developed from other sources indicate that the period of LTFV sales probably continued through the month of June 1971 and did not extend into July or beyond owing to a change in prices that month. LTFV imports therefore accounted for 100 percent of all imports from France during the period December 1970 to June 1971 and accounted for less than 10 percent of all imports from France in 1970 and two-thirds of such imports during 1971. Moreover, the margin of dumping was so slight that it could not have affected the competitive position of the LTFV merchandise vis-a-vis either those articles that were priced higher than the LTFV imports or those that were priced lower, so substantial were the price differentials.

Conclusion. In view of the fact that (1) the margin of dumping by LTFV imports from France is extremely small, (2) U.S. consumption and production of hand pallet trucks are increasing, (3) prices charged for the LTFV merchandise are substantially higher than those charged for the bulk of comparable domestically produced articles, (4) a 1971 price increase resulted in the termination of LTFV sales which are not expected to resume, and (5) at least one firm has begun production in the United States since 1971, we conclude that if the domestic industry is injured by reason of the sale of hand pallet trucks from France at less than fair value, such injury is de minimis. Moreover, because the dumping margin has had virtually no effect on price in the U.S. market, we conclude that there is no likelihood of injury to a domestic industry as contemplated by the Antidumping Act, 1921, as amended.

By order of the Commission:

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-11218 Filed 7-19-72;8:53 am]

[AA1921-94]

WELDED-WIRE MESH FROM BELGIUM

Determination of No Injury or Likelihood Thereof

The Treasury Department advised the Tariff Commission on April 17, 1972, that welded-wire mesh for concrete reinforcement from Belgium is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted Investigation No. AA1921-94 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on June 6, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of April 25, 1972 (37 F.R. 8137).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[1] determined that an industry in the United States is not being and is not likely to be injured, or prevented from being established, by reason of the importation of welded-wire mesh from Belgium covered by the aforementioned less-than-fair-value determination of the Treasury Department.

Statement of reasons. The Commission's negative determination in this investigation was based primarily on the following considerations:

1. Entries of welded-wire mesh from Belgium—which Treasury's investigation covering the 6-month period October 1, 1970, through March 31, 1971, indicated were sold mostly at less than fair value (LTFV)—were concentrated at the southeast Atlantic and western gulf ports of the United States, but have been extremely small in relation to the shipments by domestic producers located in the market areas contiguous to those ports.

2. Prices of domestic welded-wire mesh increased irregularly during 1967–71 and the only price suppressant of consequence was the sharp competition among the domestic producers.

3. As a group, the domestic producers in the areas where the Belgian imports were concentrated have experienced considerable growth during the last several years in terms of number of firms and in total value of sales.

4. Following the recent revaluation of foreign currencies, U.S. imports of welded-wire mesh from Belguim have virtually ceased.

Description of product. Welded-wire mesh for concrete reinforcement is a standardized or fungible product which, because of high transportation costs in relation to the value of mesh, is generally sold to consumers located within a relatively short distance from the domestic producing plant or port of entry for imports. Price is the principal factor of competition.

The industry. In arriving at its determination in this case, the Commission gave consideration to all the facilities in the United States used in the production of welded-wire mesh for concrete reinforcement, which are owned by about 40 firms. However, since such mesh is generally sold within a relatively short distance from the producing plant (if domestic) or the port of entry (if imported), special attention was given to the facilities that have produced most of the domestic mesh sold in recent years in the areas where the LTFV imports were concentrated—namely, the areas adjacent to southeast and western gulf ports. There are currently 18 firms producing welded-wire mesh in these areas, or four more firms than in 1965.

Import penetration. Consumption of welded-wire mesh in the southeast and western gulf areas increased irregularly from approximately 200,000 tons in 1967

[1] Commissioner Leonard was absent and Commissioner Young did not participate.

to about 250,000 tons in 1971. As annual imports of welded-wire mesh from Belgium into these areas were extremely small in relation to the consumption of welded-wire mesh, the upward trend of consumption reflects primarily a significant rise in shipments by domestsic producers located in the same areas. Total imports of Belgian welded-wire mesh, as a percentage of apparent consumption in the areas of LTFV imports, declined from no more than 4 percent in 1967 to less than 1 percent in 1971. Moreover, subsequent to the recent international monetary accord in December 1971, the Belgian franc has appreciated by about 14 percent in terms of the U.S. dollar, and shipments of Belgian welded-wire mesh to the United States have virtually ceased.

Prices. Prices of welded-wire mesh produced and sold by the domestic industry here under review increased irregularly during the period 1967–71. Furthermore, the evidence obtained during the investigation indicates that the imports from Belgium had no more than an occasional de minimis effect as a price suppressant in the U.S. market. The competition among domestic producers was a much more effective price suppressant.

Financial experience. Based on the data on financial experience made available to the Commission by the domestic producers, there is no evidence that the LTFV sales of Belgian mesh caused injury to the domestic industry here under review. The data reported for eight plants operating in the areas where the LTFV sales were concentrated show that for their welded-wire mesh operations the ratio of net profits to sales was higher in each of the years 1968, 1969, and 1971 than in 1967. The low ratio of profits to sales in 1970 was due almost entirely to the economic slowdown in that year. The LTFV sales in 1970 had no more than a de minimis effect on the profits-to-sales ratio.

Conclusion. As the market penetration by LTFV imports from Belgium is extremely small and as the dumping margins have virtually no depressing or suppressing effect on prices for welded-wire mesh for concrete reinforcement in the U.S. market, we conclude that if the domestic industry is injured by reason of imports of such mesh from Belgium, sold at less than fair value, such injury is de minimis. Moreover, we conclude that there is no likelihood of injury to a domestic industry as contemplated by the Antidumping Act.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-11217 Filed 7-19-72;8:53 am]

WATER RESOURCES COUNCIL

FORMULATION AND EVALUATION OF WATER AND RELATED LAND RESOURCES PROJECTS

Notice of Change in Discount Rate

Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 5½ percent for the period July 1, 1972, through and including June 30, 1973.

The rate has been computed in accordance with § 704.39 of the rules and regulations of the Water Resources Council, 18 CFR 704.39, and is to be used by all Federal agencies in plan formulation and evaluation of water and related land resources projects for the purpose of discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis.

The interest rate shall apply to all Federal and Federally assisted water and related land resources project evaluation reports submitted to the Congress, or approved administratively, after the close of the 90th Congress, subject, however, to the provisions of 18 CFR 704.39(d) regarding projects authorized prior to the close of the second session of the 90th Congress where State or local governmental agencies have given, prior to December 31, 1969, satisfactory assurances to pay the required non-Federal share of project costs.

The Treasury Department informed the Water Resources Council pursuant to 18 CFR 704.39(b) that the interest rate would be 5½ percent based upon the formula set forth in 18 CFR 709.39(a): "* * * the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity * * *." This rate can be used for plan formulation and evaluation for fiscal year 1973 consistent with a further provision of the Council's rules and regulations which provides "* * * [t]hat in no event shall the rate be raised or lowered more than one-quarter of 1 percent for any year." 18 CFR 704.39(a). Since the rate in fiscal year 1972 was 5⅜ percent, 18 CFR 704.39(e), the rate for fiscal year 1973 is 5½ percent.

Dated: July 14, 1972.

W. DON MAUGHAN,
Director.

[FR Doc.72-11155 Filed 7-19-72;8:50 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

OREGON DEVELOPMENTAL PLAN

State Occupational Safety and Health Standards and Their Enforcement; Notice of Submission of Plan and Availability for Public Comment

1. *Submission and description of Plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health Plan for the State of Oregon has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the Plan is in issue before him.

The Plan identifies the Workmen's Compensation Board as the State agency designated by the Governor of the State to administer the Plan Throughout the State. It proposes to define the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1). It provides a description of personnel employed under a merit system; the coverage of employees of political subdivisions; procedures for the development and promulgation of standards; procedures for prompt and effective standards setting actions for the protection of employees against new and unforeseen hazards; and procedures for the prompt restraint of imminent danger situations.

In the area of standards, the Plan includes a line-by-line comparison between Federal and State standards. The latter includes both existing State standards and proposed State standards; all standards not already in effect will, after public hearing, be adopted and enforced as a part of the Oregon State Plan, within 1 year following approval of the Plan.

The Plan further includes proposed draft legislation to be considered by the Oregon Legislature during its 1973 session amending chapter 654 of the Oregon State Code, and related provisions, to bring them into conformity with the requirements of Part 1902. Under the proposed legislation, the Workmen's Compensation Board will have full authority to enforce and administer all laws and rules protecting employee health and safety in all places of employment in the State. The legislation further proposes to bring the Plan into conformity in areas such as procedures for variances and the protection of employees from hazards.

The legislation is also intended to insure inspection in response to complaints; employer and employee representatives' opportunity to accompany inspectors and to call attention to possible

violations before, during, and after inspections in order to aid in inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision of prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers of violations of standards and orders; employer right of review of alleged violations, abatement periods, and proposed penalties and employee participation in review proceedings.

The proposed legislation is accompanied by a statement of the Governor's support for it and an opinion from the State attorney general that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the constitution and other laws of the State. The Plan sets out goals for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation by the State legislature.

It appears, therefore, that within the terms of 29 CFR 1902(b), the Oregon State Plan is developmental in those areas covered by the proposed legislation, and in certain standards-setting areas such as furnishing information to employees on hazards, precautions, symptoms, and emergency treatment. The Plan also proposes to develop a program to enlarge voluntary compliance by employees and employers.

A copy of the Plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room 1162, 1726 M Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, Room 1813, Smith Tower Building, 502 Second Avenue, Seattle, WA 98104; The Offices of the Workmen's Compensation Board, Room 204, Labor and Industries Building, Salem, Oreg. 97310; and The Offices of the Occupational Health Section, State Health Division, Room 840, State Office Building, 1400 Southwest Fifth Avenue, Portland, OR.

2. *Public participation.* Interested persons are hereby given 30 days from the date of this publication in which to submit to the Assistant Secretary written data, views, and arguments concerning the Plan. The submissions are to be addressed to the Director, Office of State Programs, Room 1162, 1726 M Street NW., Washington, DC 20210. The written comments will be available for public inspection and copying at the above addresses.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the Plan.

Signed at Washington, D.C., this 14th day of July 1972.

GEORGE C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-11203 Filed 7-19-72;8:51 am]

INTERSTATE COMMERCE COMMISSION

NOTICE OF FILING OF PETITION

JULY 14, 1972.

No. MC-C-7287 (Sub-No. 2), (Notice of Filing of Petition for a Declaratory Order), filed June 19, 1972.

Petitioner: AAACON AUTO TRANSPORT INC., New York, N.Y.; petitioner's representative: Paul Zola, 1472 Broadway, New York, NY. Petitioner holds Certificate No. MC-125808 (Sub-No. 1), authorizing it to transport used passenger automobiles, in driveaway service, in secondary movements, between points in the United States, including Alaska and excluding Hawaii, subject to certain restrictions and conditions. By the instant petition, petitioner requests the Commission find that the commodity description, used passenger automobiles, as set forth in its certificate, include all motor vehicles which under State motor vehicle registration laws may be registered as passenger automobiles. Petitioner seeks to transport vehicles which are basically automobiles and are meant to carry passengers, but which also have provision for cargo either in an open space or an enclosed area, such as the type of vehicles commonly known as the "Volkswagen Microbus" and "Econovan". Petitioner contends that the relief sought in this petition will not have an adverse effect upon the environment.

No hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the relief sought in the petition may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Service should also be made upon petitioner's representative listed above. Written material or suggestions submitted will be available for public inspection at the Office of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matters herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-11213 Filed 7-19-72;8:52 am]

[Notice 34]

ASSIGNMENT OF HEARINGS

JULY 17, 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 111812 Sub 455, Midwest Coast Transport, Inc., now assigned July 18, 1972, at Washington, D.C., postponed to August 29, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136224, Southern Transports, Inc., now assigned August 14, 1972, at Jackson, Miss., is postponed indefinitely.

No. 35435, Freight all kinds, official territory, No. 35435 Sub 1, freight all kinds, official territory, No. 35435 Sub 2, freight all kinds, southern territory, No. 35435 Sub 3, freight all kinds, Louisville & Nashville RR, No. 35435 Sub 4, freight all kinds, between Chicago and Jersey City, No. 35435 Sub 5, freight all kinds, between Maryland, New Jersey, and Pennsylvania and Central States, No. 35435 Cub 6, TOFC Rates, between the South and IFA territory, No. 35435 Sub 7, freight all kinds, between Boston and Central States, No. 35435 Sub 8, freight all kinds, between southern and official territories, No. 35435 Sub 9, freight all kinds, between Eastern and Central States, No. 35435 Sub No. 10, freight all kinds, between Ohio and Southern States, now assigned July 31, 1972, at Washington, D.C., is postponed to September 11, 1972, at the Offices of the Interstate Commerce Commission.

MC 56679 Sub 41, 48, 50, 63, Brown Transport Corp., now assigned July 17, 1972, at Jacksonville, Fla., is postponed to September 18, 1972, will be held at the Holiday Inn, South I-95, Emerson Street, Jacksonville, Fla.

MC 112989 Sub 22, West Coast Truck Lines, Inc., now being assigned hearing September 12, 1972 (3 days), at Seattle, Wash., in a hearing room to be later designated.

MC-130156, Wegiel Travel Service, Inc., now being assigned hearing September 12, 1972 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC-F-11361, Anderson Motor Lines, Inc.—Purchase (portion)—Glosson Motor Lines, Inc., now assigned continued hearing August 15, 1972, at Washington, D.C., is postponed to September 19, 1972, at Washington, D.C., in the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 97904 Sub 13, Knoxville-Maryville Motor Express, Inc., now being assigned hearing September 12, 1972 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-11215 Filed 7-19-72;8:52 am]

[Notice 99]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 17, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication. within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 26396 (Sub-No. 52 TA), filed July 3, 1972. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, Post Office Box 990, 201 West Park, Livingston, MT 59047. Applicant's representative: Wayne Waggoner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber products and particle board*, from points in Montana, to points in Arizona, Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, Pennsylvania, Alabama, and Georgia, for 180 days. Supporting shipper: Evans Products Co., Post Office Drawer No. 2, Missoula, MT 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 33426 (Sub-No. 1 TA), filed July 5, 1972. Applicant: FULLER TRANSPORTATION, INC., 1200 Shull Street, Post Office Box 198, West Columbia, SC 29169. Applicant's representative: Jerry T. Fuller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers*, from the Charleston, S.C., commercial zone and a 10-mile radius thereof to Savannah, Garden City, and Port Wentworth, Ga., and a 10-mile radius thereof, for 180 days. Supporting shipper: Southeastern Maritime Co., Post Office Box 978, Charleston, SC 29402. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 33970 (Sub-No. 12 TA), filed July 3, 1972. Applicant: GEORGE HILDEBRANDT, INC., R.F.D. No. 2, Hudson, N.Y. 12534 Applicant's representative: John J Brady, Jr., 75 State Street, Albany, NY 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, from Kingston, N.Y., to points in Connecticut, Massachusetts, New Jersey, and Shohola, Pa., for 180 days. Supporting shipper: Jova Manufacturing Corp., Kingston, N.Y. Send protests to: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 34231 (Sub-No. 8 TA), filed July 5, 1972. Applicant: D & H TRUCKING, INC., 221 East Dewey, Sapulpa, OK 74066. Applicant's representative: Frank A. Dale (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the Port of Muskogee, Muskogee, Okla., to Neodesha and Manhattan, Kans., for 180 days. Supporting shipper: Beryl G. McElhiney, General Manager, Willbros Terminal Co., Drawer 3448, Tulsa, OK. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 60186 (Sub-No. 45 TA) (Amendment), filed May 30, 1972, published in the FEDERAL REGISTER issue of June 15, 1972, amended and republished as amended this issue. Applicant: NELSON FREIGHTWAYS, INC., Post Office Box 356, 47 East Street, Rockville, CT 06066. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fried and unfried potato products*, from Caribou, Maine, to points in West Virginia, Tennessee, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Kentucky, for 180 days. Supporting shipper: American Kitchen Foods, Inc., Caribou, Maine 04736. Send protests to: District Supervisor David J. Kiernan, Interstate Commerce Commission, Bureau of Operations, 324 U.S. Post Office Building, 135 High Street, Hartford, CT 06101. NOTE: The purpose of this republication is to redescribe the commodity description.

No. MC 61403 (Sub-No. 216 TA), filed July 3, 1972. Applicant: THE MASON AND DIXON TANK LINES, INC., Post Office Box 969, Eastman Road, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten benzoic acid*, in bulk, in tank vehicles, from Chattanooga, Tenn., to Terre Haute, Ind., for 180 days. Supporting shipper: Dwight E. Long, Manager of Transportation, Velsicol Chemical Corp., 341 East Ohio Street, Chicago, IL 60611. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 103721 (Sub-No. 20 TA), filed June 30, 1972. Applicant: INDIAN VALLEY BULK CARRIERS, INC., Ridge Road, Tylersport, Pa. 18971. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from Kearny, N.J., to Bethlehem, Pa., for 180 days. Supporting shipper: Koppers Co., Inc., Pittsburgh, Pa. 15219. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 104210 (Sub-No. 67 TA), filed June 30, 1972. Applicant: THE TRANSPORT COMPANY, INC., Post Office Box 4726, 5505 Agnes, Corpus Christi, TX 78408. Applicant's representative: Mike Cotten, Post Office Box 1148, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fat*, in bulk, in tank vehicles, from Booker, Tex., to Tucumcari, N. Mex., for 180 days. Supporting shipper: James K. Rogers, Manager, 7A Land & Feeding, Inc., Post Office Box 1185, Tucumcari, NM 88401. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway, Room 206, San Antonio, TX 78205.

No. MC 106398 (Sub-No. 612 TA), filed June 27, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 51096, Dawson Station, Tulsa, OK 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from the plantsite of Peachtree Housing, Division of C. O. Smith Industries, Inc., Oxford, N.C., to points in Virginia, Kentucky, Tennessee, New York, Pennsylvania, and Maryland, for 180 days. Supporting shipper: C. O. Smith Industries, Inc., James P. Thomas, General Manager, Post Office Box 490, Moultrie, GA 31768. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 107496 (Sub-No. 853 TA), filed July 3, 1972. Applicant: RUAN TRANSPORT CORPORATION, Keosaukua Way at Third Street, Post Office Box 855 (50304), Des Moines, IA 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

vehicle, over irregular routes, transporting: *Varnish*, in bulk, in tank vehicles, from Kansas City, Mo., to points in Minnesota, Iowa, and Illinois, for 150 days. Supporting shipper: Cook Paint & Varnish Co., Post Office Box 389, Kansas City, MO 61441. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations. 677 Federal Building, Des Moines, Iowa 50309.

No. MC 109689 (Sub-No. 237 TA), filed June 30, 1972. Applicant: W. S. HATCH CO., 643 South 800 West Street, Woods Cross, UT 84087, Post Office Box 1825, Salt Lake City, UT 84110. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fluorspar*, in bulk, from Tonto Basin, Ariz., to Nichols, Calif., for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 1139R, Morristown, NJ 07960 (John Engelhardt, Distribution Department). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, Salt Lake City, UT 84111.

No. MC 112184 (Sub-No. 36 TA), filed July 5, 1972. Applicant: THE MANFREDI MOTOR TRANSIT COMPANY, 11250 Kinsman Road, Route 87, Newbury OH 44065. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products*, in bulk, in tank vehicles, from Cleveland, Ohio, to Pontiac, Mich., and Janesville, Wis., for 180 days. Supporting shipper: PPG Industries, Inc., 1 Gateway Center, Pittsburgh, Pa. 15222. Send protests to Franklin D. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 113362 (Sub-No. 241 TA), filed July 5, 1972. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs* (except frozen foodstuffs and commodities in bulk), from Cade and Lozes, La., to Baltimore, Md., New York, N.Y., Philadelphia, Pa., and the District of Columbia, for 180 days. Supporting shipper: Bruce Foods Corp., Cade, La. 70519. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 113666 (Sub-No. 66 TA), filed July 5, 1972. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and feed ingredients*, from Willow Island, W. Va., to Billings, Mont., and the return of refused, damaged or rejected shipments, for 180 days. Supporting shipper: American Cyanamid Co., Wayne, N.J. 07470. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 114552 (Sub-No. 61 TA), filed July 3, 1972. Applicant: SENN TRUCKING COMPANY, Post Office Box 333, Newberry, SC 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Cola, S.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from the plantsite and warehouse facilities of Plywood Panels, Inc., at New Orleans, La., to points in Alabama, Georgia, Florida, Mississippi, Arkansas, Tennessee, Louisiana, and Kentucky, for 180 days. Supporting shipper: Plywood Panels, Inc., Post Office Box 15435, New Orleans, LA 70115. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1200 Main Street, 300 Columbia Building, Columbia, SC 29201.

No. MC 114989 (Sub-No. 15 TA), filed June 28, 1972. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., Post Office Box 623, 1910 Walnut Street, Hopkinsville, KY 42240. Applicant's representative: Richard D. Gleaves, 610 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising matter*, from the plantsite of Schlitz Brewing Co., at Memphis, Tenn., to Hopkinsville Beverage Co., at Hopkinsville, Ky., for 180 days. Supporting shipper: John M. Higgins, Partner, Hopkinsville Beverage Co., Post Office Box 149, Hopkinsville, KY 42240. Send protests to: Wayne L. Merilatt, District Supervisor, Intertsate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 117940 (Sub-No. 78 TA), filed June 23, 1972. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: David Rubenstein (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream and frozen confectionery products*, from Toledo, Ohio, and Madison, Wis., to Maple Plain, Minn., for 180 days. Supporting shipper: Maple Plain Creamery Co., Maple Plain, Minn. 55359. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 123392 (Sub-No. 39 TA), filed June 30, 1972. Applicant: JACK B. KELLEY, INC., U.S. 66 West at Kelley Drive, Amarillo, Tex. 79106. Applicant's representative: Weldon M. Teague (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied carbon dioxide*, in bulk, between points in Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, and Texas, for 180 days. Supporting shipper: Harry E. Johnson, Southern Regional Manager, Liquid Carbonic Corp., Post Office Box 904, Houston, TX 77001. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395, Herring Plaza, Amarillo, TX 79101.

No. MC 124309 (Sub-No. 5 TA), filed June 30, 1972. Applicant: ALPHIE J. BOUSLEY, Box 611½, Route No. 2, Armstrong Creek, WI 54103. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankington Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and plywood*, from points in Oregon, Washington, Idaho, and Montana to Green Bay, Wis., for the account of Hartman Wholesale Corp., for 180 days. Supporting shipper: Hartman Wholesale Corp., 1248B North Buchanan Street, Green Bay, WI 54303 (Richard Kasper, President). Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 136732 TA (Correction), filed May 31, 1972, published in the FEDERAL REGISTER issue June 15, 1972, corrected and republished in part as corrected this issue. Applicant: CHEMAL, INC., Post Office Box 44, Wallops Island, VA 23337. Applicant's representative: George Brothers (same address as above). NOTE: The purpose of this partial republication is to include *Delaware* as a destination State which was inadvertently omitted in previous publication. The rest of the notice remains the same.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-11214 Filed 7-19-72;8:52 am]

[Notice 58]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

JULY 14, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by special rule 1100.247 [1] of the Commis-

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

sion's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 2202 (Sub-No. 412), filed June 15, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives; livestock; household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Memphis, Tenn., and Lufkin, Tex.: From Memphis over U.S. Highway 79 to junction U.S. Highway 167, thence over U.S. Highway 167 to junction Louisiana Highway 9, thence over Louisiana Highway 9 to junction U.S. Highway 79, thence over U.S. Highway 79 to Carthage, Tex., thence over Texas Highway 315 to Mount Enterprise, Tex., thence over U.S. Highway 259 Nacogdoches, Tex., thence over U.S. Highway 59 to Lufkin and return over the same route, serving no intermediate points and serving Shreveport, La., for the purpose of joinder only as an alternate route for operating convenience only. Restriction: The service authorized herein is restricted against the transportation of traffic originating at, destined to or interchanged at Memphis, Tenn., points in Memphis, Tenn., commercial zone, as defined by the Commission, or points in Alabama or Mississippi. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 3460 (Sub-No. 10), filed June 26, 1972. Applicant: MORAN TRUCKING CO., INCORPORATED, McCoole Road, Post Office Drawer E, Westernport, MD 21562. Applicant's representative: Frank B. Hand, Jr., Post Office Box 81, Winchester, VA 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products and materials and supplies*, used in the manufacture and/or distribution thereof, from Luke and Biggs, Md., to points in Tennessee on and east of Tennessee Highway 70. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 7920 (Sub-No. 9), filed June 16, 1972. Applicant: HERRIOTT TRUCKING COMPANY, INC., Alice and Sumner Streets, East Palestine, Ohio 44413. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Columbiana County, Ohio toll booth 17 of the Ohio Turnpike, and Hamburg, N.Y., on the one hand, and, on the other, points in Pennsylvania and that part of West Virginia north of U.S. Highway 40. NOTE: Applicant proposes toll booth No. 17 on the Ohio Turnpike and Hamburg, N.Y., as alternate gateways for traffic moving in the involved territory. Applicant presently may perform all of the service sought via its present gateway at Columbiana County, Ohio. Applicant proposes to tack the authority sought with its existing regular route operations at points in New York, Pennsylvania, West Virginia, Ohio, Indiana, and Illinois as authorized in MC 7920. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 15897 (Sub-No. 8), filed June 19, 1972. Applicant: O.K. TRANSFER AND STORAGE CO., a corporation, 207 South Union Street, Post Office Box 1602, Shawnee, OK 74801. Applicant's representative: William L. Williamson, 3535 Northwest 58th, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Alabama, Arkansas, Colorado, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Texas, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant states no duplicating authority is being sought. All such authority shall be canceled if, and when the instant application is granted. If a hearing is deemed necessary, applicant requests it be held at (1) Dallas, Tex., (2) Oklahoma City, Okla., (3) Wichita, Kans.

No. MC 26396 (Sub-No. 50), filed June 21, 1972. Applicant: POPELKA TRUCKING, CO., doing business as THE WAGGONERS, Post Office Box 990, Livingston, MT 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients, feed preservatives*, in bulk and in bags, and *feeding equipment* when traveling in the same load with feed, between points in Iowa and Nebraska on the one hand, and, on the other, points in Montana and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 26396 (Sub-No. 51), filed June 21, 1972. Applicant: POPELKA TRUCKING, CO., doing business as THE WAGGONERS, Post Office Box 990, Livingston, MT 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber and wood products and particle board*, from points in Montana to points in Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Missouri, Indiana, Ohio, Michigan, Utah, Arkansas, Illinois, Arizona, Louisiana, Mississippi, Kentucky, and Idaho. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 29910 (Sub-No. 118), filed June 21, 1972. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Thomas Harper, Kelley Building, Post Office Box 43, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer compounds, weed killing compounds, and agricultural insecticides and fungicides* (except commodities in bulk, in tank vehicles), from the plantsites and warehouse facilities of the Pulvair Corp. at Memphis, Tenn., and the plantsites and warehouse facilities of Pulvair Corp. near Memphis, Tenn., located in Shelby County, Tenn., to points in Illinois, Indiana, Ohio, and New Orleans, La. NOTE: Applicant states that it does not propose to tack the authority sought with the presently authorized regular or irregular route authority. No duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or New Orleans, La.

No. MC 30844 (Sub-No. 412), filed June 19, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsites and storage facilities of Heinz U.S.A. at Salem, N.J. and Chambersburg, Pa., to the plantsites and storage facilities of Heinz U.S.A. at Iowa City, Iowa, and Muscatine, Iowa, restricted to traffic originating at and destined to the named points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 30844 (Sub-No. 413), filed June 16, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, and *such commodities* as are dealt in by the R. T. French Co., from Springfield, Mo., to points in Alabama, Arkansas, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 30844 (Sub-No. 414), filed June 16, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Iowa City, Iowa, to points in Iowa, Minnesota, North Dakota, and South Dakota on and east of U.S. Highway 1. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 30844 (Sub-No. 415) filed June 26, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Waterloo, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware and plastic articles*, from Columbus, Lancaster, Port Clinton, and Toledo, Ohio to points in Iowa, Minnesota, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 41432 (Sub-No. 126), filed June 26, 1972. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207. Applicant's representative: W. P. Furrh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe and pipe fittings;* (2) *cast iron meter boxes;* (3) *manhole frames and manhole covers* (except those which because of size or weight require the use of special equipment, and except pipe and pipe fittings such as are included in the first findings of the Commission in T. E. Mercer and G. E. Mercer Extension—Oil Field Commodities, 74 M.C.C. 459 and 543, from Tyler, Tex., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority will be tacked with regular route authority but such is not proposed. If a hearing is deemed necessary, applicant requests it to be held at Dallas, Tex.

No. MC 42487 (Sub-No. 790) filed May 15, 1972. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Bristol, Tenn. and Bristol, Va., as off-route points in connection with applicant's presently authorized regular route authority. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 42487 (Sub-No. 793), filed June 20, 1972. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, assembled automobiles, and commodities requiring special equipment), between Columbia, Mo., and St. Louis, Mo., over Interstate Highway 70, as an alternate route for operating convenience only, in connection with applicant's regular route authority, restricted against service between Columbia, Mo., and its commercial zone, on the one hand, and, on the other, St. Louis, Mo., and its commercial zone, serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Jefferson City, Mo.

No. MC 53965 (Sub-No. 87), filed June 14, 1972. Applicant: GRAVES TRUCK LINE, INC., 739 North 10th, Salina, KS. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Foraker, Pearsonia, Marland, Red Rock, Ceres, Cashion, Navina, Crescent, Lovell, Mulhall, Orlando, Marshall, Douglas, Covington, Hayward, Lucien, Fairmont, Gansel, Okla., and points in Kay County, Okla., and that portion of Osage County, Okla., lying on and west of Oklahoma Highway 18 and on and north of U.S. Highway 60, as intermediate and off-route points in connection with carrier's presently authorized regular route operations. NOTE: Applicant states that he can tack its present authority with its existing authority at

Texas, Colorado, Kansas, Missouri, Nebraska, and Iowa. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 59367 (Sub-No. 80), filed June 16, 1972. Applicant: DECKER TRUCK LINE, INC., Post Office Box 915, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen packaged meat and meat products*, from the facilities of Kold-Storage, Inc., at Fort Dodge, Iowa to points in Illinois, Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn. or Chicago, Ill.

No. MC 59856 (Sub-No. 48), filed June 6, 1972. Applicant: SALT CREEK FREIGHTWAYS, a corporation, 3333 West Yellow Highway, Casper, WY 82601. Applicant's representative: C. E. Havill (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* between Newcastle and Orin, Wyo. as follows: From Newcastle over U.S. Highway 85 to Lusk, Wyo.; thence over U.S. Highway 20 to Orin, and return over the same route, serving all intermediate points and off-route points of Lance Creek and Jay Em. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Casper or Cheyenne, Wyo.

No. MC 61231 (Sub-No. 68), filed June 19, 1972. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank. 900 Hubbell Building, Des Moines, Iowa 50209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials*, from points in Cook, Du Page, Kankakee, and Will Counties, Ill., to points in Kansas and Missouri. NOTE: Applicant states that the requested authority can be tacked from all other points in Illinois and from points in Indiana in the Chicago commercial zone. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 61396 (Sub-No. 234), filed June 21, 1972. Applicant: HERMAN BROS. INC., Post Office Box 189, 2501 North 11th Street, Omaha, NE 68101. Applicant's representative: Dale G. Herman, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, having a prior or subsequent movement over the lines of the Burlington Northern, Inc., between points in Iowa, Illinois, Kentucky, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 61592 (Sub-No. 272), filed June 26, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic tubing, and related plastic fittings, connections and accessories*, from the plantsite of Tex-Tube Division of Detroit Steel Corp., located in Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 61592 (Sub-No. 273), filed June 26, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and/or boards or sheets, veneer, wood paneling, hardboard, construction board, and wood particle board*, from Oshkosh, Wis., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at Oshkosh, Wis. NOTE: Applicant states that the requested authority can be tacked with similar authority from the plantsite of General Plywood Corp., located in Oshkosh, Wis. Applicant further states that it holds similar authority from Oshkosh, Wis., from the plantsite of a single shipper. This application is to include an additional shipper. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 61592 (Sub-No. 274), filed June 26, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Store fixtures, cabinets, and shelving*, from Terrell, Tex., to points in Arizona, Utah, California, Nevada, Washington, Oregon, Colorado, Idaho, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant request it be held at Seattle, Wash.

No. MC 66886 (Sub-No. 30) (Clarification), filed March 24, 1972, published in the FEDERAL REGISTER issues of April 27, 1972, and May 18, 1972, and republished as clarified this issue. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Applicant's representative: Ralph A. Wood (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials, supplies, and equipment* used or useful in the maintenance and operation of printing and publishing houses (restricted to the transportation of commodities which because of size or weight or other inherent nature require the use of special equipment for the transportation or handling thereof); and (2) *parts, attachments, accessories, and components* of commodities named in (1) above, (a) between points in Missouri, Kansas, Illinois, Iowa, Nebraska, Colorado, Oklahoma, and Texas and (b) between points in the states named in (a) above, on the one hand, and, on the other, points in the United States. NOTE: Applicant states that the requested authority cannot be tacked with the applicant's existing authority. The purpose of this republication is to clarify the authority requested. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 66886 (Sub-No. 31), filed June 15, 1972. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vehicle washing machinery and equipment*; (2) *parts, accessories, and components* of commodities named in (1); and (3) *equipment materials and supplies* used in or useful in the operation or maintenance of commodities named in (1); restricted to shipments for the account Robo-Wash, Inc., its subsidiaries, distributors and franchises, between all points in the United States (excluding Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 66886 (Sub-No. 32), filed June 15, 1972. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled combines, harvesters and threshers and parts, accessories and components thereof*, between Independence, Mo., on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). NOTE: Applicant states that applicant's existing authority could be tacked at Independence, Mo., but such tacking is not intended. Persons interested in the tacking possibilities are cautioned that failure

to oppose the application may result in an unrestricted grant of authority. No duplicated authority is sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo. or Washington, D.C.

No. MC 69833 (Sub-No. 102), filed June 26, 1972. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride and magnesium chloride*, other than bulk, from Ludington and Midland, Mich., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Ohio, West Virginia and those points in Pennsylvania on and west of U.S. Highway 220 from the Maryland border north to its junction with U.S. Highway 15, thence north on U.S. Highway 15 to its junction with Pennsylvania State Highway 14, thence north on Highway 14 to the New York border. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 72997 (Sub-No. 20), filed June 19, 1972. Applicant: LIBERTY TRUCKING CO., a corporation, 1401 West Fulton Street, Chicago, IL 60607. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), serving Lake Mills, Wis. as an off-route point in connection with applicant's regular route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at either Madison or Milwaukee, Wis. or Chicago, Ill.

No. MC 82841 (Sub-No. 97), filed June 19, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic tubing, and related plastic fittings, connections and accessories*, from the plantsite of Tex-Tube Division of Detroit Steel Corp., Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Washington, D.C.

No. MC 82841 (Sub-No. 99), filed June 23, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete reinforcement products, accessories and parts*, from the plantsite of Superior Concrete Accessories, Inc., at or near Parsons, Kans., to points in Kansas, Nebraska, Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, North Dakota, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 82841 (Sub-No. 100), filed June 25, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Power line and power station support structures and blast deflectors*, from Tulsa, Okla., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla.; Chicago, Ill., or Kansas City, Mo.

No. MC 82841 (Sub-No. 101), filed June 26, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and woodpulp*, from Calhoun (McMinn County), Tenn., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 83539 (Sub-No. 345), filed June 19, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, cast iron meter boxes, manhole frames, and manhole covers*, except those which because of size or weight require the use of special equipment, and except pipe and pipe fittings such as are included in the first findings of the Commission in *T. E. Mercer and G. E. Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459, 543, from Tyler, Tex., to points in Arizona, California, Colorado, Montana, New Mexico, and Utah. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 87476 (Sub-No. 11), filed June 21, 1972. Applicant: CARL SCHAEFER JR. TRUCK LINE, INC., 2600 Willowburn Avenue, Dayton, OH 45427. Applicant's representative: W. L. Jordan, 2609 Fendwood Avenue, Terre Haute, IN 47803. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, siding and other component parts, materials and supplies*, used in or incidental to the construction of mobile homes, modular and/or factory constructed buildings and recreational vehicles, between Dayton, Ohio, and points in Alabama, Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority, applicant further states no duplication is being sought. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Indianapolis, Ind.

No. MC 87566 (Sub-No. 6), filed June 9, 1972. Applicant: SCHMIDT TRUCK SERVICE, INC., U.S. Highway 66, Litchfield, Ill. 62056. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products* from the plant and warehouse sites of International Paper Co., at Litchfield, Ill., to points in Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.; Chicago, Ill.; or Springfield, Ill.

No. MC 95540 (Sub-No. 854), filed June 16, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible meat*, from Plainview, Tex., and Clovis, N. Mex., to points in Pennsylvania. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 95540 (Sub-No. 855), filed June 16, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought

to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, (a) from Covington, Tipton County, Tenn., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Tennessee, Texas, New Mexico, and Oklahoma and (b) from Bloomfield, N.J., to Covington, Tenn. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 96612 (Sub-No. 12), filed June 20, 1972. Applicant: SEA-LAND FREIGHT SERVICE, INC., Corbin and Fleet Streets, Post Office Box 1050, Elizabeth, NJ 07207. Applicant's representative: Warren Price, Jr., Suite 714, The Farragut Building, 900 17th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, including commodities in bulk in marine-type containers (except those of unusual value and household goods as defined by the Commission), between Seattle, Wash., and points in the counties of Skagit, Whatcom, and Snohomish, Wash. Restriction: Restricted to the movement of such commodities having a prior or subsequent movement by water. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 100623 (Sub-No. 35), filed June 26, 1972. Applicant: HOURLY MESSENGERS, INC., doing business as, H. M. PACKAGE DELIVERY SERVICE, 20th and Indiana Avenue, Philadelphia, PA 19132. Applicant's representative: Harold G. Hernly, 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Greeting card display racks*, from Philadelphia, Pa., to points in Maryland and Virginia; points in Berks, Bucks, Carbon, Chester, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Schuylkill, and York Counties, Pa.; points in Atlantic, Ocean, Cape May, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Salem, and Warren Counties, N.J.; points in New Castle County, Del.; and the District of Columbia. Restriction: The service authorized herein is subject to the following conditions: No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 500 pounds from one consignor at one location to one consignee at one location on any 1 day, and except any package or article 108 inches or less in length or girth combined. NOTE: Applicant holds contract carrier authority under MC 102799, therefore common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 102567 (Sub-No. 149) filed June 19, 1972. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, LA 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brominated vegetable oil*, in bulk, from points in Union County, Ark., to points in California, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, New Jersey, Ohio, Pennsylvania, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La. or Houston, Tex.

No. MC 102567 (Sub-No. 151) filed June 23, 1972. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5337, Bossier City, LA 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Columbia County, Ark., to points in Louisiana, Mississippi, Oklahoma, Tennessee, and Texas (except Houston, Tex., and points within 50 miles thereof). NOTE: Applicant states that the requested authority could be tacked with the authority under MC 102567 section (A) authorizing transportation of petroleum products between points in Texas, Arkansas and Louisiana within 150 miles of Henderson, Tex. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La. or Houston, Tex.

No. MC 102567 (Sub-No. 152), filed June 26, 1972. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, LA 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in Union County, Ark., to Norfolk and Portsmouth, Va. NOTE: Applicant states that the requested authority could be tacked principally with its authority in MC 102567 section (A) authorizing transportation of petroleum products between points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La. or Houston, Tex.

No. MC 103993 (Sub-No. 720), filed June 20, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Johnson County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn.

No. MC 103993 (Sub-No. 721), filed June 28, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and sections of buildings*, on undercarriages, from points in Litchfield and Tolland Counties, Conn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.

No. MC 103993 (Sub-No. 722), filed June 28, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and sections of buildings, on under carriages*, from points in Orange County, N.Y., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 104896 (Sub-No. 42), filed June 19, 1972. Applicant: WOMELDORF, INC., Post Office Box 495, Jefferson Avenue Extension, Washington, PA 15301. Applicant's representative: James W. Patterson, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned, preserved, or prepared foodstuffs* (except in bulk), from the facilities of C. B. Foods, at or near Alton, N.Y. (Wayne County), to Massilon, Ohio, on and east of Interstate Highway 77, points in Pennsylvania, West Virginia, Maryland, Delaware, New Jersey, the District of Columbia, Nassau and Suffolk Counties, N.Y., and the New York, N.Y., commercial zone as defined by the Commission, points in Accomack and Northampton Counties, Va., and that part of Virginia on and north of a line beginning at Reedville, Va., and

along U.S. Highway 360 to Richmond, Va., to its intersection with Virginia Highway 307, thence along Virginia Highway 307 to its intersection with U.S. Highway 460, thence along U.S. Highway 460 to Roanoke, Va., to its intersection with the Virginia and West Virginia State line, and (2) *returned shipments of the above-described commodities* from the above-described destination territory to Alton, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held in Pittsburgh or Philadelphia, Pa., or Washington, D.C.

No. MC 106398 (Sub-No. 609), filed June 18, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representative: Irwin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transoprting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from East Feliciana Parish, La., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it to be held at New Orleans, La.

No. MC 106398 (Sub-No. 611), filed June 22, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Johnson County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn., or Winston-Salem, N.C.

No. MC 106644 (Sub-No. 142), filed June 18, 1972. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, NW., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: Duane W. Acklie, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Terminal tractors*, from Longview, Tex., to points in the United States (except Hawaii). NOTE: Applicant holds contract carrier authority under MC 104724 (Sub-No. 13), therefore dual operations and common control may be involved. Applicant has no present intention to tack, but would do so if applicable appropriate authority is received now or in the future. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 106674 (Sub-No. 96), filed June 19, 1972. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 451, Delphi, IN 46923. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel grinding balls*, from Greenville, Ill., to points in Alabama, Arkansas, Florida, Georgia, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 106674 (Sub-No. 97), filed June 20, 1972. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, IN 46921. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour, prepared mixes and bases for prepared mixes*, in containers, (1) from the facilities of Peavey Co. Flour Mill at Alton, Ill., to points in Florida, Georgia, Indiana, Kentucky, Michigan, Ohio, Tennessee, Minnesota, Wisconsin, Arkansas, Louisiana, Mississippi, Virginia, West Virginia, New York, New Jersey, Missouri, Iowa, Texas, and Pennsylvania and (2) from Hastings, Minn., to Alton, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107012 (Sub-No. 150), filed June 9, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Terry G. Fewell, Post Office Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment, materials and supplies* used in the manufacture and distribution of furniture, from points in the United States (except Alaska and Hawaii), to Fort Smith and Van Buren, Ark. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

No. MC 107012 (Sub-No. 151) filed June 26, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laundry equipment, washers and dryers*, from Webster City, Iowa and Fort Dodge, Iowa to points in the United States (except Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 108053 (Sub-No. 116), filed June 20, 1972. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., Post Office Box 129, Fremont, NE 68025. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, restricted to traffic originating at the named origin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 109540 (Sub-No. 25), filed June 19, 1972. Applicant: YEARY TRANSFER CO., INC., 2171 Christian Road, Lexington, KY 40505. Applicant's representative: George M. Cattlett, 703–706 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Homogenized reconstituted or reconstructed tobacco*, from Spotswood, N.J., and Ancram, N.Y., to Owensboro, Ky., with no transportation for compensation on return (except as otherwise authorized). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Cincinnati, Ohio.

No. MC 109891 (Sub-No. 22), filed June 21, 1972. Applicant: INFINGER TRANSPORTATION CO., INC., 2811 Carner Avenue, Charleston Heights, SC 29405. Applicant's representative: Frank B. Hand, Jr., Post Office Box 81, Winchester, VA 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, (1) from Savannah, Ga., and points within 10 miles thereof to point in Florida, and (2) from Savannah, Ga., and points within 10 miles thereof to points in Virginia with the right to stop in transit for partial loading at Charleston, S.C., Charlotte or Fayetteville, N.C. NOTE: Applicant holds authority from Charleston, S.C., to Savannah, Ga., so could tack through from Charleston, S.C., to Florida. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Charleston, S.C.

No. MC 110012 (Sub-No. 26), filed June 26, 1972. Applicant: G. B. C. INC., 707 North Liberty Hill Road, Morristown,

TN 37814. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated or uncrated, from the plantsite of the Berkline Corp. at or near Livingston, Tenn., to points in the United States (except Alaska and Hawaii) and *materials and supplies* used in manufacture of furniture, or return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that it presently holds authority under MC 110012 (Subs-Nos. 12, 13, 15, 18, 20, and 22) to transport specified commodities, which duplicates in part the authority here sought. Applicant seeks no duplicating authority and would request cancellation of any authority held which duplicates that is sought herein. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn. or Washington, D.C.

No. MC 110012 (Sub-No. 27) filed June 26, 1972. Applicant: G. B. C., INC., 707 North Liberty Hill Road, Morristown, TN 37814. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust and wood shavings*, from points in Hamblen County, Tenn., to Middlesboro, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn. or Washington, D.C.

No. MC 110420 (Sub-No. 660) filed June 15, 1972. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products*, dry, in bulk, in tank or hopper type vehicles, from Danville, Ill., to points in Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110420 (Sub-No. 661), filed June 16, 1972. Applicant: QUALITY CARRIERS, INC., I–94 County Highway C, Bristol, Wis., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge, Post Office Box 186, Pleasant Prairie, WI 53158. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients*, dry, in bulk, in tank or hopper type vehicles, (a) from Hammond, Ind., to points in Alabama, Connecticut, Delaware, Georgia, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin; (b) from Battle Creek, Mich., to points in Connecticut, Delaware, Kansas, and Massachusetts; and (2) *animal feed ingredients*, liquid, in bulk, in tank vehicles, from Milwaukee, Wis., to points in Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111812 (Sub-No. 477), filed June 9, 1972. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East 8th Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products, and commodities* used by meat packinghouses, as described in appendix I, from Dubuque, Iowa to points in Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 111375 (Sub-No. 63), filed June 26, 1972. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., Post Office Box 3358, Madison, WI 53704. Applicant's representative: Charles W. Singer, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food*, from Delavan, Wis., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. NOTE: Applicant states that no tacking under presently held authority. However, tacking is possible if pending applications are granted. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113963 (Sub-No. 3), filed June 26, 1972. Applicant: HEAVY & SPECIALIZED HAULERS, INC., Post Office Box 8796, Nashville, TN 37211. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed and precast concrete products*, from points in Rutherford County, Tenn., to points in Alabama, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina. NOTE: Applicant holds authority to transport size and weight commodities in MC 113963 which could be tacked. Applicant has no present intension to tack. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 114019 (Sub-No. 237), filed June 21, 1972. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa, to points in Connecticut, Delaware, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the named origin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114194 (Sub-No. 167), filed June 5, 1972. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: Gene Kreider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flour*, in bulk, from St. Louis, Mo., to points in Ohio, Pennsylvania, and New York, and (2) *Coloring syrup* (carmel), in bulk, from Louisville, Ky., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 114194 (Sub-No. 168), filed June 26, 1972. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: Donald D. Metzler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products, and blends*, in bulk, from Lafayette, Ind., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is

deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 114273 (Sub-No. 123), filed June 19, 1972. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel shot*, from the plantsite and facilities of Alloy Metal Abrasives at Adrian, Mich., to points in Illinois (except the Chicago commercial zone, as defined by the Commission). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114273 (Sub-No. 124), filed June 16, 1972. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel shot* from the plantsite and storage facilities of Alloy Metal Abrasives at or near Adrian, Mich., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, Oklahoma, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115311 (Sub-No. 136), filed June 9, 1972. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile home axles, components, parts and supplies* (except in bulk) from points in Jasper County, Ga., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Virginia, Tennessee, Kentucky, Indiana, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115841 (Sub-No. 433), filed June 23, 1972. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, AL 35204. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from Reading, Pa. to points in California, Arizona, Utah, Washington, Oregon, Idaho, Colorado, and Nevada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either (1) Philadelphia, Pa.; (2) New York, N.Y.; or (3) Washington, D.C.

No. MC 116014 (Sub-No. 58), filed June 19, 1972. Applicant: OLIVER TRUCKING COMPANY, INC., Post Office Box 53 (Bloomfield Road), Winchester, KY 40391. Applicant's representative: Carl U. Hurst, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (1) between the plantsite of Jones & McKnight Steel, Inc., at or near Bradley, Ill., on the one hand, and, on the other, points in Ohio and West Virginia; and (2) between South Shore and Maysville, Ky., and points in Ohio and West Virginia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Louisville, Ky.

No. MC 116544 (Sub-No. 131), filed June 15, 1972. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: Robert Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts* as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at Marshall, Mo., to points in Colorado, Illinois, Indiana, Iowa, Louisiana, Minnesota, Mississippi, Nebraska, Texas, and Wisconsin, restricted to traffic originating at Marshall, Mo., and destined to points in the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 117119 (Sub-No. 459), filed June 19, 1972. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Applicant's representative: Bobby G. Shaw (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), *food ingredients and advertising materials and specialties*, and *related equipment and supplies*, when moving with foodstuffs and food ingredients (except in bulk), from points in Minnesota and Wisconsin and Estherville, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states it holds authority which could be tacked with authority sought herein, however tacking is not intended. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. The purpose of the instant application is, in part, to (1) eliminate certain gateways now utilized in the transportation of foodstuffs as presently authorized, (2) to broaden the commodity description contained in certain certificates now held, and (3) to extend operations to some extent. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 117815 (Sub-No. 196), filed June 26, 1972. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 910 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the storage facilities and plantsites of Farmland Foods, Inc., at or near Carroll, Denison, and Iowa Falls, Iowa, to points in Illinois, Indiana, Michigan, Wisconsin, Minnesota, Kansas, and Missouri, restricted to traffic originating at the named origins and destined to the named destination States. NOTE: Applicant states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 118159 (Sub-No. 124), filed May 24, 1972. Applicant: EVERETT LOWRANCE, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representative: Jack R. Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned chicken*, in vehicles equipped with mechanical refrigeration (except in bulk), from the plantsite and storage facilities utilized by Hope Foods Corp. at or near Hope, Ark., to points in Louisiana, Mississippi, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant did not specify a location.

No. MC 121168 (Sub-No. 4), filed June 12, 1972. Applicant: BOOTH TRANSFER, INC., Central City, Nebr. 68826. Applicant's representative: Patrick E. Quinn, Post Office Box 82028,

Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen onions* and *frozen onion products*, from the plantsite and storage facilities utilized by Delicious Foods Co. at or near Grand Island, Nebr., to points in Iowa, Minnesota, Wisconsin, South Dakota, and Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 121658 (Sub-No. 2) (CORRECTION), filed April 28, 1972, published in the FEDERAL REGISTER issues of June 2, and June 22, 1972, and republished as corrected this issue. Applicant: STEVE D. THOMPSON, 1205 Percy Street, Post Office Box 149, Winnsboro, LA 71295. Applicant's representative: Charles H. Ryan, Post Office Box 4065, Monroe, LA 71201. NOTE: The purpose of this republication is to show that applicant seeks to transport general commodities, with the usual exceptions, that is, except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment. Also, Item (9) which appeared in the FEDERAL REGISTER on June 22, 1972, referred to Louisiana Highway 165. This should have read U.S. Highway 165. The rest of the notice remains as previously published.

No. MC 123061 (Sub-No. 64), filed June 19, 1972. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, UT 84104. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Materials and supplies* used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, in mixed loads, destined to the warehouse, plantsite and/or customers of Van Waters & Rogergs, Inc., doing business as Bonanza Salt Co., from Denver, Colo., to points in Utah, California, Wyoming, Idaho, Washington, Montana, Oregon, and Nevada, (B) *Fiberglas fixtures and hardware* incidental to the installation thereof, from Boise, Idaho to points in Montana, and (C) *frozen foods and fish* in mixed loads, from Seattle, Wash., to points in Idaho and Utah. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 123255 (Sub-No. 22) filed June 26, 1972. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the distribution centersite of Heinz U.S.A. Division at Iowa City, Iowa and the plantsite and storage facilities of Heinz U.S.A. Division at Muscatine, Iowa to points in Illinois, Indiana, Ohio, New Jersey, and Pennsylvania, restricted to traffic originating at and destined to the specified points. NOTE: Applicant holds contract carrier authority under MC 81968 and subs thereunder, therefore dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123407 (Sub-No. 103), filed June 21, 1972. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123639 (Sub-No. 146) filed June 19, 1972. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard, Denver, CO 80216. Applicant's representative: John F. De Cock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and articles distributed by meat packinghouses*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from Denver, Colo., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted against service to points in Illinois north of a line beginning at the Illinois-Missouri State field, Ill., and extending through Springfield to the Illinois-Indiana State line. NOTE: Applicant states that it intends to tack at Denver, Colo., with its Sub-2, also authority sought could be tacked from points in Kansas and Nebraska, but would not be feasible due to circuity. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 124692 (Sub-No. 93) filed June 21, 1972. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, couplings, connectors, and accessories* (except iron and steel pipe), from Springfield, Ill., to points in California, Colorado, Oregon, Washington, Arizona, Utah, Idaho, Montana, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or St. Louis, Mo.

No. MC 125996 (Sub-No. 29) filed June 19, 1972. Applicant: ROAD RUNNER TRUCKING, INC., Post Office Box 37491, Omaha, NE 68137. Applicant's representative: Arnold Burke, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carnivorous animal food, canned or packaged*, from the plantsite and storage facilities utilized by Kal Kan Foods, Inc., Vernon, Calif., to points in Illinois, Iowa, Kansas, Minnesota, Missouri, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Los Angeles, Calif.

No. MC 126278 (Sub-No. 7) filed May 16, 1972. Applicant: FRIGID WAY CARTAGE CO., a corporation, 4500 West 44th Place, Chicago, IL. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, drugs* and *plastic and rubber articles*, from Columbus, Ohio, to Peoria and Chicago, Ill.; Milwaukee, Wis., and Minneapolis-St. Paul, Minn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126545 (Sub-No. 6), filed May 12, 1972. Applicant: GLENERY, INC., 173 Hickory Street, Kearny, NJ 07302. Applicant's representative: George A. Olsen (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs, chemicals, pharmaceuticals* (except in bulk), (2) *cleaning, scouring, and washing compounds* (except in bulk), (3) *crude rubber* (except in bulk), between Kearny, N.J., Newark, N.J., points in New York, N.Y., commercial zone, Philadelphia, Pa., on the one hand, and, on the other, Kearny, N.J., points in Essex, Bergen, Hudson, Warren, Union, Middlesex, Passaic, Salem, Morris, and Camden Counties, N.J., Rockland, Westchester, Nassau, and Suffolk Counties, N.Y.; Norwich, Rochester, Tonawanda, Waterloo, and Niagara Falls, N.Y., Andover and Springfield, Mass., Norwich and North Haven, Conn., and Myerstown, Gardner, Mechanicsburg, Westchester, Easton, Lock

Haven, and Ephrata, Pa., and (4) *cleaning, scouring, and washing compounds* in bulk in water carrier or shipper owned containers, between Kearney, N.J., Newark, N.J., points in New York, N.Y., commercial zone, Philadelphia, Pa., on the one hand, and, on the other, Kearny, N.J., Middlesex and Bergen Counties, N.Y., and North Haven Conn., and Springfield, Mass., under continuing contract with Fallek Products Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 128215 (Sub-No. 11), filed June 20, 1972. Applicant: MARTIN TRAILER TOTERS, INC., Post Office Box 36, Bogalusa, LA 70427. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger vehicles, in initial movements, from points in Claiborne Parish, La., to points in Texas, Oklahoma, Arkansas, Missouri, Tennessee, Mississippi, and Alabama. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 128279 (Sub-No. 21), filed June 13, 1972. Applicant: ARROW FREIGHTWAYS, INC., 150 Woodward Road SE., Post Office Box 25125, Albuquerque, NM 87125. Applicant's representative: Olif Q. Boyd (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from mill sites near South Fork, Dolores, Montrose, Pagosa Springs, Durango, and Bayfield, Colo., to points in Arizona and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albuquerque or Santa Fe, N. Mex.

No. MC 128355 (Sub-No. 11) (Amendment), filed May 15, 1972, published in the FEDERAL REGISTER issue of July 7, 1972, and republished as amended this issue. Applicant: HURLIMAN TRUCKING COMPANY, a corporation, 8265 North Borthwick, Portland, OR 97217. Applicant's representative: John R. Hamlett, 2200 Erie County Savings Bank Building, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in Sections A and B of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Denison, Des Moines, Fort Dodge, Glenwood, Iowa Falls, Sioux City, Sioux Center, Waterloo, Carroll, and Spencer, Iowa; Omaha and West Point, Nebr.; and Luverne, Minn., to points in the New York, N.Y. commercial zone, and Westbury, Long Island, N.Y., under contract with W. M. Tynan & Co., Inc. NOTE: The purpose of this republication is to show that Carroll, Iowa, has been added as an origin point, and that Westbury, Long Island, N.Y., has been added as a destination point. Common control may be involved. Applicant does not seek duplicating authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129325 (Sub-No. 3), filed June 15, 1972. Applicant: DIAZ MOTOR FREIGHT, INC., 2829 Frenchmen Street, New Orleans, LA 70100. Applicant's representative: J. G. Dail, Jr., 1111 E Street, NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic tubing*, from Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applican requests it be held at Houston, Tex.

No. MC 129516 (Sub-No. 8) filed June 12, 1972. Applicant: PATTONS, INC., 2300 Canyon Road, Ellensburg, WA 98926. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, and agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in mixed shipments with bananas, from Seattle and Tacoma, Wash., and points in California, to ports of entry on the international boundary line between the United States and Canada at or near Blaine, Sumas, and Oroville, Wash.; Eastport and Porthill, Idaho; and Sweetgrass, Mont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash. or Portland, Oreg.

No. MC 133095 (Sub-No. 33), filed June 9, 1972. Applicant: TEXAS CONTINENTAL EXPRESS, INC., Post Office Box 434, Euless, TX 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foam cups*, from Lyndhurst, N.J., to points in the United States (except Alaska and Hawaii); and (2) *Foam cups, cereal, and plastic articles*, from Clinton, Mass., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 133478 (Sub-No. 5) (Amendment), filed April 3, 1972, published in the FEDERAL REGISTER issue of May 18, 1972, and republished as amended this issue. Applicant: HEARIN TRANSPORTATION, INC., Post Office Box 25448, 865 Beaverton, Hillsdale Highway, Portland, OR 97225. Applicant's representative: Nick I. Goyak, 404 Oregon National Building, 610 Southwest Alder Street, Portland, OR 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plywood, paneling, stock, paint, mill machinery, and materials* used in connection with manufacturing of wood and plywood products, from Seattle, Vancouver, and Longview, Wash., to the plantsite of Hearin Products, Inc., in Beaverton, Oreg., for the account of Hearin Products, Inc., and (2) *Plywood lumber, particleboard, wood beams, and materials*, used in connection with manufacturing of wood and plywood products between points in Oregon and Washington on the one hand, and on the other, the plantsite of Hearin Forest Industry, Inc., in Vancouver, Wash., for the account of Hearin Forest Industries, Inc. NOTE: The sole purpose of this republication is to add additional authority. If a hearing is deemed necessary, applicant requests it be held at Portland. Oreg., or Seattle, Wash.

No. MC 133884 (Sub-No. 4) filed June 21, 1972. Applicant: BRUCE FULLER, 1710 Main Street, Buhl, ID 83310. Applicant's representative: Earl H. Scudder, Jr., Post Office Box 82028, 605 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed supplements, feed concentrates, and feed ingredients*, from Carlsbad, N. Mex.; points in Crook County, Wyo., California, Washington, and Oregon, to points in Idaho, Montana, Oregon, Utah, and Washington under contract with James Farrell & Co., Seattle, Wash. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 134105 (Sub-No. 6) filed June 21, 1972. Applicant: CELERYVALE TRANSPORT, INC., Rural Route 1, Post Office Box 96; Fort Lupton, CO 80621. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, plantains, pineapples, coconuts, and agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act when transported in mixed shipments with bananas, plantains, pineapples, and coconuts, from Galveston, Tex., to Denver and Grand Junction, Colo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant request it be held at Denver, Colo. or Oklahoma City, Okla.

No. MC 134328 (Sub-No. 1) filed June 19, 1972. Applicant: D & G TRUCKING CO., INC., 1450 Hamilton Avenue, Wynne, AR 72396. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*,

by motor vehicle, over irregular routes, transporting: *Copper tubing* and *copper pipe*, and *accessories* therefor, from Wynne, Ark., to points in Alabama, Oklahoma, Kansas, Missouri, Louisiana, Mississippi, Texas, Tennessee, Georgia, and Florida, restricted to a transportation service to be performed under a continuing contract, or contracts, with Cambridge-Lee Metal Co., Inc., of Memphis, Tenn. NOTE: Applicant states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 134599 (Sub-No. 43), filed June 8, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representatives: Richard A. Peterson, Post Office Box 60608, Lincoln, NE 68501, and Gordon L. Roberts, 520 Kearns Building, Salt Lake City, UT 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic* (granular or powder), *synthetic rubber, rubber chemicals, latex, and equipment, materials and supplies* used in the manufacture and production of the above named items (except commodities in bulk, in tank vehicles, and except commodities which, because of size or weight require special handling or special equipment) between the plantsites and warehouse facilities of Uniroyal, Inc., at Geismar, Scotts Bluff, and Baton Rouge, La., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with Uniroyal, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134599 (Sub-No. 44), filed June 14, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber products and equipment, materials and supplies* used in the manufacture and production of rubber products (except commodities in bulk and commodities because of size or weight require special handling or special equipment), between Red Oak, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with Uniroyal, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134599 (Sub-No. 45), filed June 23, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tire fabric*, (1) from Lynchburg, Va., to Los Angeles, Calif.; Eau Claire, Wis.; Detroit, Mich.; Shelbyville, Tenn., Opelika, Ala., and Chicopee Falls, Mass., and (2) from Scottsville, Va., to Lynchburg, Va., under a continuing contract with Uniroyal, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134599 (Sub-No. 46) filed June 23, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tire fabric*, (1) from Scottsville, Va.; Shelbyville, Tenn., and Winnsboro, S.C.; to Louisville, Ky.; to Detroit, Mich.; Eau Claire, Wis.; Chicopee Falls, Mass.; Opelika, Ala., and Los Angeles, Calif., under contract with Uniroyal, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134599 (Sub-No. 47) filed June 28, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic yarn and hose or belting fabric*, from Hogansville, Ga., to Winnsboro, S.C.; Scottsville, Va., and Shelbyville, Tenn., and points in California, under a continuing contract with Uniroyal, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr. or Salt Lake City, Utah.

No. MC 134781 (Sub-No. 2), filed June 13, 1972. Applicant: FAST FREIGHT TRANSFER, INC., Post Office Box 2163, Hialeah, FL 33012. Applicant's representative: Richard B. Austin, 5720 Southwest 17th Street, Miami, FL 33155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, as defined by the Commission, commodities in bulk, class A and B explosives, articles of unusual value or requiring specialized handling), (1) between points in Dade County, Fla., on the one hand, and, on the other points in Dade, Broward, and Palm Beach Counties, Fla.; and (2) between points in Dade, Broward, and Palm Beach Counties, Fla., on the one hand, and, on the other, points in Dade County, Fla., restricted to traffic having a prior or subsequent movement by rail and (excluding traffic handled by freight forwarders under the jurisdiction of the Commission). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 135542 (Sub-No. 2), filed May 15, 1972. Applicant: TIMOTHY D. SHAW, Rural Delivery No. 1, Sweet Valley, Pa. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum bars, rods, tubing, and shapes*, (a) from Mountaintop, Pa., to points in New York, New Jersey, Maryland, Massachusetts, Connecticut, Delaware, Rhode Island, Virginia, and Orange County, Fla., and (b) from Dayton, N.J., to points in Pennsylvania, New York, Maryland, Massachusetts, Connecticut, Delaware, Rhode Island, Virginia, and Orange County, Fla., and return of packaging materials, (2) *scrap aluminum*, loose or in containers, (a) from Dayton, N.J., to Bellwood and Richmond, Va., and Cressona, Pa. (b) from Scranton, Pa., to Dayton, N.J., and (3) *aluminum ingots and billets*, from Bellwood and Richmond, Va., and Rooseveltown, N.J., to Mountaintop, Pa., and Dayton, N.J. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 13726 (Sub-No. 2), filed June 12, 1972. Applicant: GUST HRONIS, doing business as LANGE TRUCKING SERVICE, Route 1, Box 176, West Bend, WI 53095. Applicant's representative: William L. Slover, 1224 17th Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buffing or polishing compounds*, NOI, including boat, floor, furniture, or vehicle polish or wax; (2) *cleaning, scouring, or washing compounds*, NOI, *liquid or other than liquid;* (3) *Chemicals*, NOI; (4) *Coating, wax*, fruit or vegetable; (5) *Compounds, increasing, reducing, removing, or thinning, paint, lacquer, or varnish;* (6) *Deodorants or disinfectants*, NOI, other than toilet preparations; (7) *Dressing or blacking shoe, including shoe whitener* (cleaner); (8) *Electric floor polisher or scrubbers;* (9) *Insecticides or insect repellants*, other than agricultural, NOI or *animal repellants;* (10) *Metal cutting, drawing, or drilling lubricants, or compounds, liquid, or paste*, other than petroleum, NOI; (11) *Mops, or mop parts*, NOI; (12) *Varnishes*, NOI; (13) *Plastic*, NOI, liquid and other than liquid; (14) *Printed matter, paper, or paperboard*, NOI; (15) *Shaving cream;* (16) *Sizing*, NOI; (17) *Textile softeners;* (18) *Liquid starch;* (19) *Store display stands or racks*. Any other products manufactured, sold, or dealt in by S. C. Johnson & Son, Inc. (except in bulk or in tank vehicles), from points in Wisconsin to points in Washington, Oregon, California, Arizona, Nevada, Idaho, Montana, Utah, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, under contract with S. C. Johnson & Son, Inc., Racine, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Washington, D.C.

No. MC 135871 (Sub-No. 8) filed June 21, 1972. Applicant: H.G.M. TRANSPORT COMPANY, a corporation, 1079 West Side Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores, and *supplies and equipment* used in the conduct of such business (except commodities in bulk), (1) between New York, N.Y., and Jersey City, N.J. (including the commercial zones of these points as described by the Interstate Commerce Commission, Syracuse and Utica, N.Y., on the one hand, and, on the other, Waynesboro, Pa.; Staunton and Collinsville, Va.; Princeton, W. Va.; and Reidsville, N.C., (2) between Syracuse and Utica, N.Y., on the one hand, and, on the other, Warsaw and Huntington, Ind.; Sturgis, Mich.; and Fort Madison, Iowa, under contract with F.B.C. Stores, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 135914 (Sub-No. 1) filed June 19, 1972. Applicant: BENTON & HOLDEN, INC., 864 North Avenue, Elizabeth, NJ 07201. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York City, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* in containers, between points in New Jersey, New York City, Nassau, Suffolk, Orange, and Rockland Counties, N.Y., and Fairfield County, Conn. Restriction: The service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 136215 (Sub-No. 1), filed June 21, 1972. Applicant: WEST COAST PRODUCE COMPANY, INC., 1500 South Zarzamora Street, San Antonio, TX 78207. Applicant's representative: Stanley E. Burch, 1188 North Star Mall, San Antonio, TX 78216. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boxed wax molded candles and glass encased candles (candles in glass tumblers)*, for the Miracle Candle Co. of Laredo, Tex., from Laredo, Tex., to points in New Mexico, Arizona, and California, under contract with Miracle Candle Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Antonio, Laredo, or Dallas, Tex.

No. MC 136233 (Sub-No. 2), filed June 12, 1972. Applicant: NORTHTOWN TRUCK LINES, INC., 1112 Swift Avenue, Post Office Box 7333, North Kansas City, MO 64116. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beverages* in containers, and *related advertising material*, between Kansas City and Richmond, Mo., on the one hand, and, on the other, Omaha, Nebr.; Peoria, Ill.; and Detroit, Mich., under contract with Northland Distributing Co., Inc.; Richmond Distributing Co., and Roper Distributing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 136285 (Sub-No. 2), filed May 24, 1972. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., Post Office Box 9165, Savannah, GA 31402. Applicant's representative: Jack C. Sanford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, in bulk or in bags, restricted to traffic having a subsequent movement by water; and (2) *empty containers* to be used in the transportation thereof, between points in Georgia and South Carolina, on the one hand, and, on the other hand, Charleston, S.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at (1) Atlanta, Ga. or (2) Washington, D.C.

No. MC 136376 (Sub-No. 2), filed June 14, 1972. Applicant: MONT R. LYNCH, doing business as, LYNCH TRUCKING, 1505 Bitterroot Drive, Billings, MT 59101. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woven fiberglas*, in all forms, including roving strand, pressed or woven, of varying lengths, from Amsterdam, N.Y., West Shelby, N.C., and Waterville, Ohio, to Auburn, Kirkland, and Seattle, Wash. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 136409 (Sub-No. 1), filed May 8, 1972. Applicant: M. A. ELLEFSON AND SON, INC., doing business as ACME MOVING & STORAGE, Post Office Box 5444, Augusta, GA 30906. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, in containers restricted to traffic having a prior or subsequent movement, beyond the points authorized and to performance of pickup and delivery service in connection with packing, crating, or containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Burke, Emanuel, Jefferson, Lincoln, Richmond, Taliaferro, Wilkes, Columbia, Glascock, Jenkins, McDuffie, Screven, and Warren Counties, Ga., and points in Aiken, Barnwell, Hampton, Allendale, Edgefield, and McCormick Counties, S.C. NOTE: If a hearing is deemed necessary, applicant requests it be held at Augusta, Ga.

No. MC 136425 (Sub-No. 1), filed June 26, 1972. Applicant: IMPERIAL PARTS DISTRIBUTION, INC., Post Office Box 816, 2701 South Bayshore Drive, Miami, FL 33133. Applicant's representative: Walter N. Bieneman, Suite 1700, One Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts and accessories, and related publications, advertising material, packing and shipping supplies*, between points in Florida (except points west of Jackson, Calhoun, and Gulf Counties, Fla.) and points in Appling, Atkinson, Bacon, Berrien, Brantley, Brooks, Camden, Charlton, Clinch, Coffee, Colquitt, Cook, Decatur, Echols, Glynn, Grady, Lanier, Lowndes, McIntosh, Pierce, Seminole, Thomas, Ware, and Wayne Counties, Ga., under a continuing contract or contracts with Chrysler Corp. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136431 (Sub-No. 1), filed June 16, 1972. Applicant: FRANK ANDLER, Post Office Box 684, Iron Mountain, MI 49801. Applicant's representative: William B. Elmer, 23801 Gratiot Avenue, East Detroit, MI 48021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverage* and *soft drink syrup concentrate*, from St. Paul and Minneapolis, Minn.; South Bend, Ind.; and Milwaukee, Wis., to Escanaba and Engadine, Mich., restricted to traffic destined to the facilities of Miller Beverage Co. and Seaway Distributing Co. at Escanaba, Mich., and to the facilities of L. W. Bellville Distributing Co. at Engadine, Mich.; (2) *malt beverages*, from Houghton, Mich., to points in Wisconsin on and north of U.S. Highway 10 and to points in Virginia and Minnesota, restricted to traffic originating at the plantsite of Bosch Brewing Co. at Houghton, Mich.; (3) *empty containers*, from Milwaukee, Wis., to Houghton, Mich., restricted to traffic destined to the facilities of Bosch Brewing Co. at Houghton, Mich.; (4) *carbonated beverages*, from Green Bay, Wis., to Kingsford, Mich., restricted to traffic destined to the facilities of Rice Juice Co. at Kingsford, Mich., and (5) *empty containers*, from Mount Vernon, Ohio to Kingsford, Mich., restricted to traffic destined to the facilities of Rice Juice Co. at Kingsford, Mich. NOTE: Applicant holds contract carrier authority under MC 114365 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., Lansing, Mich., or Chicago, Ill.

No. MC 136487 (Amendment) filed February 23, 1972, published in the FEDERAL REGISTER issue of April 6, 1972, and

republished as amended this issue. Applicant: S S T INCORPORATED, 1200 West Main Street, Griffith, IN 46319. Applicant's representative: Sylvia L. Terpstra, 1211 West Main Street, Griffith, IN 46319. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel products and articles*, between points in Illinois and Indiana to wit: (A) In the area of Indiana, bounded on the west by the Indiana-Ohio line, bounded on the north by the Indiana-Michigan line, bounded on the west by the Indiana-Illinois line, bounded on the south by the counties of: Randolph, Henry, Hancock, Marion, John, Shelby, Morgan, Owen, and Vigo, and (B) In the area of Illinois, bounded on the east by the Indiana-Illinois line, bounded on the north by the Illinois-Wisconsin line, bounded on the west by the Illinois-Iowa line, bounded on the south by the counties of: Rock, Henry, Knox, Fulton, Mason, Menard, Logan, Macon, Moultrie, Coles, and Clark. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The sole purpose of this republication is to redescribe the scope of the application. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 136501 (Sub-No. 1), filed June 18, 1972. Applicant: CARDOSI CONTRACT REFRIGERATED EXPRESS, INC., 4919 East Shore Drive, Memphis, TN 38109. Applicant's representative: Bill R. Diavis, Suite 1208, Gas Light Tower, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs and blends* (except in bulk), from Arlington, Tenn., to points in the United States, including Alaska but (excluding Hawaii); and (2) *materials and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, (except in bulk) from points in the United States including Alaska (but excluding Hawaii), to Arlington, Tenn., in interstate or foreign commerce, under a continuing contract with Pure Packed Foods, Inc. of Arlington, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 136556 (Sub-No. 2), filed June 15, 1972. Applicant: J. A. HARALSON, doing business as, J. A. HARALSON TRANSFER COMPANY, 430 East Front, Tyler, TX 75701. Applicant's representative: Phillip Robinson, Post Office Box 2207, Austin, TX 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials and supplies*, including tools used in the construction and maintenance of telephone systems and communications, between points in Smith County, Tex., and points in the counties of Smith, Van Zandth, Henderson, Anderson, Cherokee, Wood and those points on and east of I–45 in Freestone, Tex., under contract with Western Electric Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Fort Worth, or Houston, TX.

No. MC 136575 (Sub-No. 2), filed June 9, 1972. Applicant: ROY WILSON, doing business as, ROY WILSON TRANSFER & WAREHOUSE, 200 North Third Street, Longview, TX 75601. Applicant's representative: Phillip Robinson, Post Office Box 2207, Austin, TX 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials and supplies*, including tools used in the construction and maintenance of telephone systems and communications, between points in Gregg County, Tex., and points in the counties of Gregg, Harrison, Panola, Rusk, Marion, Upshur, Camp, Franklin, and Titus, Tex., under contract with Western Electric Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Fort Worth, or Houston TX.

No. MC 136561 (Sub-No. 2), filed June 7, 1972. Applicant: HOLLIS ELLIS, doing business as MORSE TRANSFER & STORAGE COMPANY, 401 West Broadway, Sweetwater, TX 79556. Applicant's representative: Hollis Ellis (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials and supplies, including tools* used in construction and maintenance of telephone systems and communications, between Nolan County, Tex., on the one hand, and, on the other, points in Nolan, Kent, Stonewall, Scurry, Fisher, Coke, Tom Green, Concho, Schleicher, Mitchell, Menard, Sutton, and Kimbell Counties, Tex., under contract with Western Electric Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sweetwater or Abilene, Tex.

No. MC 136580 (Sub-No. 2), filed June 14, 1972. Applicant: AAAA LUTHER MOVING & STORAGE COMPANY, INC., 520 23d Street, Lubbock, TX 79408. Applicant's representative: Philip Robinson, Post Office Box 2207, Austin, TX 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials, and supplies*, incluudng *tools* used in the construction and maintenance of telephone systems and communications, between points in Lubbock County Tex., and points in Lubbock, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Dawson, and Borden Counties, Tex., under contract with Western Electric Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Fort Worth, or Houston, Tex.

No. MC 136587 (Sub-No. 4), filed June 5, 1972. Applicant: ALFRED J. WELLER, doing business as A. J. WELLER, 396 Clarmont, Willowick, OH 44095. Applicant's representative: George S. Maxwell, 526 East Superior Avenue, Cleveland, OH 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Green salted cattle hides and green salted sheep pelts*, from Cleveland, Ohio, to Chicago, Ill.; Fond du Lac & Milwaukee Wis.; Grand Haven, Mich.; New York metropolitan area; Boston metropolitan area; and Pownal, Vt., under contract with D. E. Rose & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland or Columbus, Ohio.

No. MC 136599 (Sub-No. 2), filed June 14, 1972. Applicant: CORPUS CHRISTI TRANSFER COMPANY, a corporation, 1120 Buffalo, Corpus Christi, TX 78403. Applicant's representative: Phillip Robinson, Post Office Box 2207, Austin, TX 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials, and supplies*, including *tools* used in the construction and maintenance of telephone systems and communications, between points in Nueces County, Tex., and points in Nueces, Jim Wells, Kleberg, Duval, San Patricio, and Aransas, Tex., under contract with Western Electric Co., Inc. NOTE: Applicant holds common carrier authority under MC 69361 and Subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Fort Worth, or Houston, Tex.

No. MC 136671, filed April 26, 1972. Applicant: TRIANGLE EXPRESS, LTD., 5211 Regent Street, Burnaby 2, BC Canada. Applicant's representative: J. J. Joyce, 1666 Boundary Road, Vancouver, 6, BC, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* between port of entry on the international boundary line between the United States and Canada at Blaine, Wash., and points in Washington and Oregon, under contract with Duke Lumber Ltd.; and (2) *steel* between port of entry on the international boundary line between the United States and Canada at Blaine, Wash. and points in Washington and Oregon under contract with Sea Import Handling Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 136807 filed June 5, 1972. Applicant: INTERNATIONAL CARTAGE, INC., 1020 18th Street, Detroit, MI 48216. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between Flint, Mich., and the port of entry on the international boundary line between the United States and Canada at or near Port Huron, Mich., over Michigan Highway 21, as an alternate port of entry on traffic originating at or destined to Canadian points, serving no

intermediate points and for operating convenience only. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 136825 Filed June 8, 1972. Applicant: ENDICOTT TRUCKING CO., a corporation, 1193 Refugee Road, Columbus, OH 43207. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electronic and high fidelity instruments, accessories, parts, tools, and supplies* therefor, and *uncrated store fixtures* between the warehouse facilities at Radio Shack Division of Tandy Corp., Columbus, Ohio, on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Tennessee, Georgia, Michigan, New York, Pennsylvania, and West Virginia, under contract with Radio Shack Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 136826 filed June 6, 1972. Applicant: ROYAL BARNEY, BRUCE BARNEY & COURTLAND ROYAL BARNEY, a partnership, doing business as BARNEY & SONS, 522 Colorado Street, Butte, MT 59701. Applicant's representative: Neil J. Lynch, Medical Arts Building, Butte, Mont. 59701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Potato chips*, from Portland, Oreg., to Butte and Livingston, Mont., under contract with Jerry's Distributing Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 136837 filed June 12, 1972. Applicant: FLORIDA CONTINENTAL EXPRESS, INC., 220 South Third Street, Haines City, FL 33844. Applicant's representative: Lawrence D. Fay, 21 West Church Street, Post Office Box 1086, Jacksonville, FL 32201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, polishing, and waxing compounds; starches; air fresheners and disinfectants; mops; dusters; waxers; brooms; plastic bags; and foodstuffs* (restricted against commodities in bulk or tank vehicles), from Urbana, Ohio, and Franklin, Ky., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio or Washington, D.C.

No. MC 136838, filed June 9, 1972. Applicant: BEUTENMILLER, INC., 455 Walnut Street, Coshocton, OH 43812. Applicant's representative: James Duvall, 505 Hartman Building, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulp board* from the plantsite of Stone Container Corp., at or near Coshocton, Ohio, to points in Illinois, Indiana, Michigan, New York, Pennsylvania, and West Virginia, and (2) *scrap paper* from the States named in (1) above to the plantsite of Stone Container Corp. at or near Coshocton, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

MOTOR CARRIER OF PASSENGERS

No. MC 136102 (Sub-No. 1), filed June 1, 1972. Applicant: CAROLINA BLUE BIRD EXPRESS, INC., Route 2, Box 13, Ridgeland, SC 29936. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) Regular route: *Passengers and their baggage, and express*, between Hilton Head Island, S.C., and Savannah, Ga.; from Hilton Head Island, over U.S. Highway 278 to junction South Carolina Highway 46, thence over South Carolina Highway 46 to junction U.S. Highway 170, thence over U.S. Highway 170 to junction unnumbered road, thence over unnumbered road to junction U.S. Highway 17A, thence over U.S. Highway 17A to Savannah and return over the same route, serving all intermediate points, and (2) Irregular routes: *Passengers and their baggage*, in charter operations, beginning and ending at points on the above route (except Savannah, Ga.), and points in Beaufort and Jasper Counties, S.C., and extending to points in Florida, Georgia, North Carolina, South Carolina, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbia or Charlestson, S.C., or Savannah, Ga.

No. MC 136606, filed April 11, 1972. Applicant: RICHMOND COACH LINES, LTD., 1231 Bridgeport Road, Richmond, BC, Canada. Applicant's representative: J. J. Joyce, 1666 Boundary Road, Burnaby, BC, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in charter operations, from the city of Vancouver, the municipality of Burnaby, and the municipality of Richmond, to the British Columbia-United States international boundary line, bordering between British Columbia and Washington, to points in Washington, Oregon, California, and Nevada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 136839, filed June 9, 1972. Applicant: JOSEPHINE KOFFMAN AND NANCY J. NIMMO, doing business as BERGEN LIMOUSINE RENTAL SERVICE, 201 Madison Avenue, Hasbrouck Heights, NJ 07604. Applicant's representative: Jerome Stein, 11 Commerce Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* (less than 10 passengers per vehicle) between points in New Jersey, New York, Pennsylvania, and Connecticut. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 2253 (Sub-No. 50), filed June 14, 1972. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, Highway 150 E., Cherryville, N.C. 28021. Applicant's representative: W. C. Mauldin, Post Office Box 697, Cherryville, N.C. 28021. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Cincinnati, Ohio, as an intermediate point in connection with applicant's authorized regular route operations between Dayton, Ohio, and Charlotte, N.C. NOTE: The purpose of this application is to eliminate the Dayton, Ohio, gateway.

No. MC 128319 (Sub-No. 2), filed June 26, 1972. Applicant: DOWDA MOTOR FREIGHT, INC., West Main Street, Centre, Ala. 35960. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except household goods and commodities requiring special equipment) between points in Cherokee County, Ala., on the one hand, and, on the other, points in Alabama on and north of U.S. Highway 80; and (2) *telephone, telegraph and powerline poles* from Brewton and Brownville, Ala., on the one hand, and, on the other, points in Cherokee County, Ala. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Sub-No. 1 and service provided between points in Alabama on and north of U.S. Highway 80, on the one hand, and, on the other, Rome and Atlanta, Ga., serving its intermediate points between Rome, Ga., and Centre, Ala.

APPLICATION FOR POSTAL CERTIFICATE

Interstate Commerce Commission, No. MC-137017 (Notice of Filing an Application for a Postal Certificate of Public Convenience and Necessity), filed March 20, 1972. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road SW., Massillon, OH 44646. Applicant's representative: James Muldoon, 50 West Broad Street, Suite 1310, Columbus, OH 43215. By application filed March 20, 1972, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *Mail* over irregular routes in the following territory: (1) Between Cleveland, Youngstown, and Warren, Ohio; (2) between Cleveland, Ohio, and Wheeling, W. Va., serving the intermediate points of Akron, Canton, Steubenville, and Bridgeport; (3) between Columbus and Akron, Ohio; (4) between Detroit, Mich., Toledo, Marion, Columbus, Chillicothe, and Portsmouth, Ohio, Ashland, Ky., Huntington and Charleston, W. Va.; (5) Between Canton, Mansfield, and Cincinnati,

Ohio; (6) between Cincinnati and Youngstown, Ohio, serving the intermediate points of Columbus and Akron; (7) between Pittsburgh, Pa., and Charleston, W. Va., serving the intermediate points of Moundsville, Wheeling, New Martinsville, and Parkersburg; and (8) Between Richmond, Va., and Cincinnati, Ohio.

Applicant states that it seeks authority to operate between all points in Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia. This request is premised on the fact that Items (1) through (7) above contain points of service within these States, and further, on the argument that, because the U.S. Postal Service has the right to extend the termini under applicant's existing contracts, which if occurring, would leave the applicant without the requisite certificated authority to perform the required service. Appended to the application are copies of eight postal contracts held by applicant which were in effect on July 1, 1971, the critical "grandfather" date: Route No. 44016 (formerly Route No. 38419) relating to service between Cleveland and Youngstown, Ohio; Route No. 44014 (formerly Route No. 38414) relating to service between Cleveland, Ohio and Wheeling, W. Va.; Route No. 43014 (formerly Route No. 38237) relating to service between Canton and Columbus, Ohio; Route No. 43025 (formerly Route No. 38588) relating to service between Detroit, Mich, and Charleston, W. Va.; Route No. 45020 relating to service between Canton and Cincinnati, Ohio; Route No. 45015 (formerly Route No. 38526) relating to service between Cincinnati and Youngstown, Ohio; Route No. 25010 (formerly Route No. 55163) relating to service between Pittsburgh, Pa., and Charleston, W. Va.; and Route No. 230 YB relating to service between Richmond, Va., and Cincinnati, Ohio.

Any interested person desiring to participate may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicant's representative.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-11110 Filed 7-19-72;8:45 am]

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THURSDAY, JULY 20, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 140
PART II

INTERIM COMPLIANCE PANEL

Permits for Noncompliance With Respirable Standard

■

Applications, Renewals and Hearings

Title 30—MINERAL RESOURCES

Chapter V—Interim Compliance Panel (Coal Mine Health and Safety)

SUBCHAPTER A—COAL MINE HEALTH

PART 502—PERMITS FOR NONCOMPLIANCE WITH 2.0 mg./m.³ RESPIRABLE DUST STANDARD

Pursuant to the authority contained in section 508 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 957) there was published in the FEDERAL REGISTER for May 18, 1972 (37 F.R. 10042) a notice of proposed rulemaking setting forth a new Part 502 "Permits for Noncompliance with 2.0 mg./m.³ Respirable Dust Standard" of Title 30, Code of Federal Regulations.

Interested persons were afforded a period of 30 days from the date of publication of the notice in which to submit written comments, suggestions, or objections, to the proposed regulations. Five letters were received offering comments, suggestions, or objections. All were given careful consideration and may be examined together with the Interim Compliance Panel's replies to each in the Panel's offices at 1730 K Street NW., Washington, DC 20006, Room 800.

Based upon these comments the Interim Compliance Panel has provided in this Part 502 for the exclusion of specified working places from a permit that may be granted to an underground coal mine. This part enables the Interim Compliance Panel to serve the purposes of the Act when dealing with multisectional mines where the Panel determines such working place exclusions are necessary based upon the application submitted. This exclusion method gives eligible underground coal mine operators maximum opportunity to avail themselves of the noncompliance permits issued pursuant to the Act, and, at the same time, ensures that those working places in which the operator is able to meet the standard shall be subject to the provisions of the Act thus assuring maximum protection for the underground coal miner.

Some comments indicated an apparent misunderstanding of the authority of the Interim Compliance Panel and, in particular, the coverage of a noncompliance permit. The authority of the Interim Compliance Panel to issue noncompliance permits is limited to the working places in a mine. "Working place" is defined in the Act (30 U.S.C. 878(g)(2)) as "the area of a coal mine inby the last open crosscut." A noncompliance permit issued for a mine, therefore, is valid only for those areas of the mine inby the last open crosscut, i.e., the working places.

Part 502 of Title 30, Code of Federal Regulations, Subchapter A—Coal Mine Health, as set forth below, is herewith promulgated and shall become effective upon publication in the FEDERAL REGISTER (7–20–72).

GEORGE A. HORNBECK,
Chairman.

JULY 13, 1972

Sec.

AUTHORITY: The provisions of this Part 502 issued under Title V, sec. 508, Public Law 91–173, 30 U.S.C. 957.

§ 502.1 Application of this Part 502.

This Part 502 applies to applications for permits and renewals thereof allowing operators of underground coal mines to operate areas of a coal mine inby the last open crosscuts in noncompliance with the 2.0 mg./m.³ respirable dust standard set forth in section 202(b)(2) (30 U.S.C. 842(b)(2)) of the Federal Coal Mine Health and Safety Act of 1969, and to requests for hearings conducted with respect to such applications.

§ 502.2 Definitions.

As used in this Part:

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91–173, 30 U.S.C. 801 through 960);

(b) "Panel" means the Interim Compliance Panel, an independent agency established by section 5 of the Act (30 U.S.C. 804);

(c) "U.S.B.M." means the U.S. Bureau of Mines, Department of the Interior;

(d) "2.0 mg./m.³ standard" means the average concentration of respirable dust prescribed by section 202(b)(2) of the Act (30 U.S.C. 842(b)(2));

(e) "Operator" means any owner, lessee, or other person who operates, controls, or supervises an underground coal mine and whc files an application with the Panel for an initial permit or renewal for noncompliance with the 2.0 mg./m.³ standard with respect to a mine designated in such application;

(f) "Application" means a request by an operator for an initial permit or renewal for noncompliance filed in accordance with and containing all of the information required by this Part 502;

(g) "Permit" means an initial permit for noncompliance issued to an operator, or a renewal thereof, which entitles the operator to exceed the 2.0 mg./m.³ standard with respect to all working places in an individual coal mine except for those expressly excluded;

(h) "Working place" means the area of a coal mine inby the last open crosscut;

(i) "Working section" means all areas of the coal mine from the loading point of the section to and including the working faces;

(j) "U.S.B.M. respirable dust series" means an up-to-date series of respirable dust samples taken and submitted to the U.S.B.M. pursuant to the provisions of U.S.B.M. regulations, 30 CFR Part 70 Subpart C, or subsequent revision thereof; and

(k) "Certified engineer" means a person certified or registered by the U.S.B.M. for the purpose of conducting a survey of the respirable dust conditions of a mine.

§ 502.3 Filing procedures.

(a) Application forms may be obtained upon request to the Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, DC 20006.

(b) Each application shall contain the information specified hereinafter and should be submitted on the form provided by the Panel. The original and one copy of each application shall be filed by mail or by personal delivery to the Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, DC 20006. In order to meet the filing deadline established by the Act applications must be received by the Panel no later than October 31, 1972, or bear a postmark date no later than October 31, 1972. Postage meter dates will not be accepted as verification of date of mailing.

(c) The accuracy of the information set forth in each application submitted shall be attested by the operator and the certified engineer as evidenced by their signatures. The certified engineer shall also set forth his U.S.B.M. certification number.

(d) Prior to the time an application is mailed or delivered to the Panel, the operator or his agent shall post on the mine bulletin board a notice that such application is being filed and that a copy of the application is available at the mine office for inspection by any interested person during regular working hours. The notice shall remain posted until the operator is informed of the Panel's action on the application.

(e) A copy of each application received by the Panel will be available at the office of the Panel in Washington, D.C., for inspection by any person during official working hours.

§ 502.4 Information required—responsibility of operator.

The operator shall include in his application a report of the engineering survey described in § 502.5 and each of following items of information:

(a) The name, address, and U.S.B.M. identification number of the mine with respect to which a permit is requested;

(b) The name, address, and telephone number of the operator;

(c) A statement that notice of the application has been posted on the bulletin board of such mine;

(d) A description of the methods of mining used in the mine;

(e) A description of the ventilation system of the mine and its capacity;

(f) A list of all working sections identified by name and by U.S.B.M. identification number;

(g) A statement that the operator is unable to comply with the 2.0 mg./m.^{3} standard at specified working places because the technology for reducing the concentration of respirable dust at such places is not available, or because of the lack of other effective control techniques or methods, or because of any combination of such reasons; and

(h) A statement of the means and methods which will be employed to achieve compliance with the 2.5 mg./m.^{3} standard, the progress made toward achieving compliance, and an estimate of the date on which compliance can be achieved.

§ 502.5 Information required—engineering survey.

A certified engineer shall conduct a survey of the respirable dust conditions of each working place of the mine with respect to which an application is filed. The application shall contain a report of the results of such survey, including each of the following items of information:

(a) A description of the available technology used in the mine to control dust including:

(1) The quantity and velocity of air reaching the working faces;

(2) The amount and pressure of water, if any, reaching the working faces;

(3) The number, location, and type of sprays, if any; and

(4) Other dust control methods and techniques, if any.

(b) A statement of the engineer's professional opinion as to the operator's current ability to maintain the respirable dust in the working places at or below the 2.0 mg./m.^{3} standard;

(c) A list of the names and the U.S.B.M. numbers of the working sections in which compliance with the 2.0 mg./m.^{3} standard cannot be maintained;

(d) A statement of the engineer's professional opinion detailing the specific factors preventing compliance with the 2.0 mg./m.^{3} standard and the means and methods deemed necessary to achieve compliance with the 2.0 mg./m.^{3} standard; and

(e) A statement of the means and methods to be employed to achieve compliance with the 2.0 mg./m.^{3} standard, the progress made toward achieving compliance, and an estimate of the date when compliance can be achieved.

§ 502.6 Processing of applications—additional evidence.

All applications timely filed in accordance with the provisions of this Part will be processed by the Panel in the order in which completed applications are received. The Panel will consider the respirable dust sampling data of record with the U.S.B.M. for the mine, but will not issue a permit unless a U.S.B.M. respirable dust series has been established for the mine. The Panel will make its determination on the basis of the application, the respirable dust sampling records on file with the U.S.B.M., and such additional evidence as the Panel deems necessary to its determination, including, but not limited to, evidence in support of representations made in the application. Each applicant shall, upon written request by the Panel, submit such additional evidence in writing.

§ 502.7 Issuance of initial permits—limitation.

(a) The Panel may issue an initial permit to cover working places of the mine inby the last open crosscuts based upon an application which is timely filed and complete in all material respects in accordance with §§ 502.3 to 502.6, inclusive.

(b) When the application and the U.S.B.M. respirable dust series do not furnish a basis for a determination that the operator is unable to comply in the working places of certain working sections, the Panel may exclude such working places from the coverage of a permit.

(c) Each initial permit will be issued for the period specified by the Panel but in no case for more than 1 year. Each permit will specify the average concentration of respirable dust which the operator will be entitled to maintain, but in no case shall the level be greater than 3.0 mg./m.^{3}.

(d) If a permit is issued, such permit will be forwarded to the operator. If a permit is denied, the Panel will advise the operator in writing of the reasons therefor, and the operator shall be entitled to request a public hearing pursuant to the provisions of §§ 502.10 and 502.11.

(e) The permit and one copy will be mailed to the operator at the address specified in the application. A copy of the permit shall immediately be posted on the bulletin board of the affected mine by the operator or his agent.

(f) No permit shall be valid beyond December 30, 1975, or the date which the 2.0 mg./m.^{3} standard is superseded by improved mandatory health standards, whichever first occurs.

§ 502.8 Applications for renewal of permits.

(a) To be considered by the Panel, every application for renewal of a permit must be:

(1) Filed with the Panel not more than 90 days nor less than 30 days prior to the expiration date of the permit in effect; and

(2) Submitted on the form and in the manner prescribed in §§ 502.3 through 502.6 inclusive, specifically setting forth the actions which have been taken to achieve compliance since the date of filing the previous application, and new plans, if any.

(b) When an application for renewal of a permit for noncompliance is received, the Panel shall cause to be published in the FEDERAL REGISTER a notice giving any interested person an opportunity to file with the Panel a request for a public hearing.

(c) On or before the 15th day after publication of notice in the FEDERAL REGISTER that an application for renewal has been accepted for consideration, any interested person may file pursuant to provisions of §§ 502.10 and 502.11 a request for a public hearing.

(d) After public hearing, or after the expiration of the aforementioned 15-day period if no hearing has been requested pursuant to paragraph (c) of this section, the Panel shall make its determination on the merits of the application for a renewal.

§ 502.9 Renewal of permits—limitation.

(a) The Panel may renew a permit when an application for renewal has been timely filed and is complete in all material respects in accordance with § 502.8.

(b) With the renewal application and the U.S.B.M. respirable dust series do not furnish a basis for a determination that the operator is unable to comply in the working places of certain working sections, the Panel may exclude such working places from the coverage of a permit.

(c) In order for a renewal application to be considered, an operator must provide information in his application which will enable the Panel to determine that he will be unable to comply with the 2.0 mg./m.^{3} standard upon the expiration date of his existing permit.

(d) The Panel will obtain from the U.S.B.M. and consider the respirable dust sampling data which is on file with the U.S.B.M.

(e) Each renewal will be issued for the period specified by the Panel, but in no case for a period longer than 1 year. The period of noncompliance authorized by renewal shall not extend beyond December 30, 1975. Each renewal will specify the average concentration of respirable dust which the operator will be entitled to maintain in the working places of the mine, but in no case shall the level be greater than 3.0 mg./m.^{3}.

(f) If a renewal is granted, it will be forwarded to the operator. If a renewal is denied, the Panel will advise the operator in writing of the reasons therefor, and the operator may be entitled to request a public hearing pursuant to the provisions of §§ 502.10 and 502.11.

(g) The renewal and one copy will be mailed to the operator at the address specified in the application. A copy of the renewal shall immediately be posted on the bulletin board of the affected mine by the operator or his agent.

§ 502.10 Requests for hearing.

Any person interested in an application for a permit, including the operator or a representative of the miners of an affected mine, may request a public hearing. The request must satisfy the requirements of § 502.11 and be filed with the Panel:

(a) Where the application is for an initial permit, within 15 days after the mailing of the Panel's decision on the application; or

(b) Where the application is for renewal of a permit, within 15 days after the notice of opportunity for public hear-

ing is published in the FEDERAL REGISTER pursuant to § 502.8(b). However, an operator may file a request for a hearing on an application for the renewal of a permit within 15 days after the date of mailing of the Panel's decision on the application provided that no hearing has previously been conducted concerning the application for renewal.

§ 502.11 Filing of requests for hearing—contents.

(a) Requests for public hearings shall be submitted by letter mailed or delivered to the Panel. If such a request is made by a person other than the operator, the person making the request shall mail a copy of the request to the operator.

(b) Requests for hearings shall be in writing, signed by the person making the request and shall:

(1) State the interest, in the application or in the decision of the Panel, of the person making the request;

(2) State whether the person making the request seeks the issuance, denial, or modification of the permit; and

(3) Allege specific facts which are claimed to raise a substantial issue and which, if established at the hearing, would result in the issuance, denial, or modification of the permit.

§ 502.12 Public hearings—practice and procedure.

Public hearings will be conducted pursuant to the Panel's regulation governing practice and procedure for hearings, 30 CFR Part 505 (35 F.R. 11296, July 15, 1970).

[FR Doc.72-11053 Filed 7-19-72;8:45 am]

federal register

THURSDAY, JULY 20, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 140

PART III

COST OF LIVING COUNCIL

Construction Pay Adjustments; Prenotification Requirements

■

PAY BOARD

Pay Stabilization, Prenotification and Reporting

Notice of hearings and proposed rule making

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTION, AND CLASSIFICATION OF ECONOMIC UNITS

Category I Pay Adjustments; Construction Pay Adjustments and Prenotification Requirements

Section 101.21 of Subpart C of Part 101 of Chapter I of Title 6 of the Code of Federal Regulations is amended in paragraph (a) to provide that a "category I pay adjustment" means a pay adjustment which applies to or affects 5,000 or more employees or which applies to or affects the wages or salaries (as defined in section 11(b) of Executive Order No. 11588 (3 CFR, 1971 Comp., 36 F.R. 6339) of employees engaged in construction (as defined in section 11(a) of Executive Order No. 11588 supra).

At the request of the Pay Board, the Council removed from category I those pay adjustments of employees engaged in construction other than construction workers whose wages and salaries are defined in section 11(b), provided the pay adjustments affect less than 5,000 employees. The Council action will allow the Pay Board to implement the revised procedure of Subpart E of Part 201 of this title for the review of those pay adjustments removed by this regulation from category I.

Because the purpose of this regulation is to amend and modify Part 101 to provide immediate guidance and information as to Cost of Living Council decisions, the Council finds that publication in accordance with usual rule making procedures is impracticable and that good cause exists for making this regulation effective in less than 30 days.

Interested persons may submit written comments regarding the above amendment. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, New Executive Office Building, Washington, D.C. 20507.

These amendments shall become effective when filed with the Office of the Federal Register.

DONALD RUMSFELD,
Director,
Cost of Living Council.

Part 101 of Chapter I of Title 6 of the Code of Federal Regulations as follows:

1. Subpart C is amended in § 101.21 (a) to read as follows:

§ 101.21 Category I pay adjustments; construction pay adjustments; prenotification requirements.

(a) A category I pay adjustment means a pay adjustment which applies to or affects 5,000 or more employees or which applies to or affects the wages or salaries (as defined in section 11(b) of Executive Order No. 11588 (3 CFR, 1971 Comp., 36 F.R. 6339) of employees engaged in construction (as defined in section 11(a) of Executive Order No. 11588 supra).

* * * * *

[FR Doc.72-11312 Filed 7-18-72;4:41 pm]

PAY BOARD

[6 CFR Parts 201, 202]

REVISION OF REGULATIONS RELATING TO PAY STABILIZATION, PRENOTIFICATION, AND REPORTING

Notice of Hearings on Proposed Regulations

A proposed revision of Parts 201 and 202 of Pay Board regulations appears in this issue of the FEDERAL REGISTER (37 F.R. 14531). Parts 200 and 205 of Pay Board regulations are of a procedural rather than substantive nature and are not set forth in notice form at this time.

Public hearings on the provisions of this proposed revision are scheduled as follows: August 17, 1972—Ceremonial Court Room, Room 2525, Everett McKinley Dirksen Building, 219 South Dearborn St., Chicago, Illinois; August 21, 1972—Ceremonial Court Room, 19th Floor, Federal Building, 450 Golden Gate, San Francisco, California; August 24, 1972—Appellate Court, Room 318, Federal Court House Bldg., Forsyth & Walton Street, Atlanta, Georgia; and August 28, 1972, Civil Service Commission Auditorium, 1900 E Street, N.W., Washington, D.C. If necessary, each hearing at each location will be extended for an additional day immediately following the day scheduled in this notice and all hearings shall commence at 9:00 a.m. (local time).

Persons who desire to present oral comments (in addition to having submitted written comments or suggestions within the time prescribed in the notice of proposed rule making) must, within 20 days from the date of publication of this notice in the FEDERAL REGISTER, submit an outline of the topics and the time they wish to devote to each topic. Such outlines shall be submitted to the Chairman of the Pay Board, Attention: Office of General Counsel, Box 19255, Washington, D.C. 20036.

An agenda will be prepared containing the order of presentation of oral comments and the time allotted to each presentation. Ordinarily, a period of 10 minutes shall be allotted to each person for making oral comments. Such oral comments shall be limited to a discussion of matters contained in the written outline. Persons making oral comments should be prepared to answer questions not only on the topics listed in his outline but also in connection with the matters relating to his written comments.

In addition to the regulations published in the notice of proposed rule making, comments and outlines for oral presentation are solicited at this time with respect to any Cost of Living Council provision relating to Pay Board matters. If there is a sufficient response to those provisions, persons submitting such comments will be notified that their presentation has been scheduled for an appropriate hearing.

Copies of written comments and suggestions and of outlines or prepared statements for oral presentation will not be available at the hearings except to the extent persons submitting such comments, suggestions, statements, or outlines furnish copies for public use.

GEORGE H. BOLDT,
Chairman of the Pay Board.

[FR Doc.72-11185 Filed 7-19-72;12:27 pm]

[6 CFR Parts 201, 202]

REVISION OF REGULATIONS RELATING TO PAY STABILIZATION, PRENOTIFICATION, AND REPORTING

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Chairman of the Pay Board. (A cross-reference table showing appropriate numerical changes between the regulations in effect and these proposed regulations is set forth in Appendix B.) Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (and which identify the organization of any person submitting such comments), preferably in quintuplicate, to the Chairman of the Pay Board, Attention: Office of General Counsel, Box 19255, Washington, DC 20036, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically requested to be considered confidential under section 205 of the Economic Stabilization Act of 1970, as amended, may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Chairman of the Pay Board within 20 days from the date of publication of this notice in the FEDERAL REGISTER. Public hearings will be held, and notice of the time, place, and date of such hearings is simultaneously published herewith. The proposed regulations are to be issued under the authority contained in the Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 743), Executive Order No. 11,640, 37 F.R. 1213 (1972) as amended by Executive Order No. 11,660, 37 F.R. 6175 (1972), and Cost of Living Council Order No. 3, 36 F.R. 20202 (1971), as amended.

GEORGE H. BOLDT,
Chairman of the Pay Board.

PART 201—STABILIZATION OF WAGES AND SALARIES

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201.84 Included nonunion construction employees.
201.85 Computational rules.
201.86 Reporting requirements.

Subpart H—State and Local Governments
[Reserved]

AUTHORITY: The provisions of this Part 201 issued under Economic Stabilization Act of 1970, as amended; Public Law 92-210, 85 Stat. 743; Executive Order No. 11640, 37 F.R. 1213 (1972) as amended by Executive Order No. 11660, 37 F.R. 6175 (1972); and Cost of Living Council Order No. 3, 36 F.R. 20202 (1971), as amended.

Subpart A—Introduction

§ 201.1 Purpose and scope.

The purpose of these regulations is to establish rules and standards to stabilize wages and salaries, as defined in § 201.3, in accordance with the provisions of Executive Order No. 11640 37 F.R. 1213 (1972), as amended. No reduction in the amount of wages and salaries being paid on November 13, 1971, will be required pursuant to this part unless and to the extent that such wages and salaries were increased in violation of the Economic Stabilization Act of 1970, as amended, and orders and regulations issued pursuant thereto. Except as otherwise provided in this chapter, those classes of wages and salaries which were held by the Cost of Living Council not to be subject to the Economic Stabilization Program before November 14, 1971, shall not be affected by any provision of this part. However any collective-bargaining agreement subject to Executive Order No. 11588, 36 F.R. 6339 (1971), relating to the stabilization of wages and prices in the construction industry, as amended by Executive Order No. 11640, further providing for the stabilization of the economy, shall be subject to the general wage and salary standard. All persons are required by law to comply, and are expected to do so voluntarily, with the provisions of the Economic Stabilization Act of 1970, regulations, circulars, and orders issued thereunder. These regulations shall be construed in a manner consistent with the policies of the Act, and every person subject to the provisions of these regulations shall be required to interpret and apply such provisions in good faith to carry out such policies. The policies governing pay adjustments, adopted by the Pay Board on November 8, 1971, are attached as an appendix to this part.

§ 201.2 Extent to which prior regulations or other published matter are affected.

(a) To the extent that any provision of Economic Stabilization Regulation No. 1, 36 F.R. 20842 (1971), as amended, or any provision of the circulars issued pursuant thereto, is inconsistent with the provisions set forth in this chapter, the provisions of this chapter shall be controlling.

(b) To the extent that neither the Cost of Living Council nor the Pay Board issues regulations with respect to specific matters concerning wages and salaries, such matters shall continue to be subject to Economic Stabilization Regulation No. 1, as amended, and the circulars issued pursuant thereto.

§ 201.3 Definitions.

As used in this part, unless the context indicates otherwise, the term:

"Act" means the Economic Stabilization Act of 1970, as amended.

"Appropriate employee unit" means a group composed of all employees in a bargaining unit or in a recognized employee category. Such bargaining unit or employee category may exist in a plant or other establishment or in a department thereof, or in a company, or in an industry, or in a governmental unit or in an agency or instrumentality thereof, and shall be determined so as to preserve, as nearly as possible, contractual or historical wage and salary relationships.

"Base date" means, with respect to an appropriate employee unit, the day prior to the first day of a control year.

"Base payroll period" means, with respect to an appropriate employee unit, the most recent payroll period which ends on or before the base date, or, if such payroll period is not representative because of seasonal variations or for other valid reasons, the most recent payroll period prior to the base date which, under all the facts and circumstances, fairly represents the base year. A payroll period may be a week, 2 weeks, month, or other accepted time period, in accordance with demonstrated practices.

"Base year" means, with respect to an appropriate employee unit, the 12-month period ending on the base date.

"Chargeable increases" means those wage and salary increases or adjustments in the average straight time hourly rate or average hourly benefit rate which are included in the amount used to determine whether the maximum permissible annual aggregate wage and salary increase has been exceeded with respect to an appropriate employee unit.

"Code" means the Internal Revenue Code of 1954, as amended.

"Control year" means, with respect to an appropriate employee unit, the period of time determined pursuant to § 201.53.

"Employment contract" means a collective bargaining agreement or an individual contract of employment.

"Freeze" means the period of economic stabilization beginning on August 16, 1971 and ending on November 13, 1971.

"Included benefit" means any benefit (other than a qualified benefit) the cost of which is taken into account in determining the average hourly benefit rate or adjustments therein pursuant to § 201.56.

"Maximum permissible annual aggregate wage and salary increase" means, with respect to an appropriate employee unit during any control year, the limitation on increases in the base compensation rate. This limitation is the general wage and salary standard described in § 201.10(a), or, if appropriate, any exception thereto pursuant to Subpart B, including any decision of the Pay Board relating to such unit pursuant to § 201.30.

"Party at interest" means:

(1) A bargaining representative of employers who could be required to pay the wages and salaries in question, or in the absence of such bargaining representative, an employer who could be required to pay the wages and salaries in question; or

(2) A bargaining representative of employees who could receive payment of wages and salaries in question, or in the absence of such bargaining representative, an employee who could receive payment of the wages and salaries in question

"Pay Board" or "Board" means the Pay Board established pursuant to Executive Order No. 11640, 37 F.R. 1213 (1972), as amended, or its delegate.

"Person" includes any individual, estate, trust, sole proprietorship, partnership, association, company, joint venture, corporation, fiduciary, labor organization, State or local governmental unit or instrumentality of such governmental unit, or a charitable, educational, or other such institution; however, the term does not include a foreign or domestic corporation in a foreign country, or an organization that includes within its membership foreign governments or instrumentalities thereof, or a foreign government, or an instrumentality thereof, except to the extent that such instrumentality is doing business in the United States.

"Qualified benefit" means any benefit paid or granted pursuant to a qualified benefit plan as defined in § 201.58(b).

"Wages and salaries" includes all forms of direct and indirect remuneration or inducement to employees by their employers for personal services, which are reasonably subject to valuation, including but not limited to: Vacation and holiday payments; bonuses; layoff and severance pay plans; supplemental unemployment benefits; night shift, overtime, and incentive pay; employer contributions for insurance plans (but not including Federal public plans, e.g. old-age, survivors, health, and disability insurance under the Social Security system, Railroad Retirement Acts, Federal Insurance Contributions Acts, Federal Unemployment Tax Acts, and Civil Service Retirement Acts, and not including any workman's compensation or unemployment insurance plan pursuant to State law whether the participation of the employer is optional or obligatory), savings, pension, profit sharing, annuity funds, and other deferred compensation and welfare benefits; payments in kind; job perquisites; housing allowances; uniform and other work clothing allowances (but not including employer-required uniforms and work clothing whether or not for safety purposes); cost-of-living allowances; commission rates; stock options, fringe benefits; and benefits which result in more pay per

hour or other unit of work or production (e.g. by shortening the workday without a proportionate decrease in pay).

Subpart B—General Pay Standard and Exceptions

§ 201.10 General wage and salary standard.

(a) *Standard.* The general wage and salary standard (hereinafter the "standard") is established at 5.5 percent. The standard shall apply to any wage and salary increase payable with respect to an appropriate employee unit pursuant to an employment contract entered into or modified after November 13, 1971, or to a pay practice established, modified, or administered with discretion after November 13, 1971. Except as otherwise provided in this title or by decision of the Pay Board, the standard shall be the maximum permissible annual aggregate wage and salary increase for such an appropriate employee unit.

(b) *Criteria for standard.* The appropriateness of the standard will be reviewed periodically by the Pay Board to ensure that the standard—

(1) Is generally fair and equitable;

(2) Generally fosters orderly economic growth and generally prevents gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

(3) Takes into account such factors as changes in productivity and the cost of living, as well as other factors consistent with the purposes of the Act; and

(4) Calls for generally comparable sacrifices by business and labor as well as other segments of the economy.

§ 201.11 Exceptions.

(a) *In general.* This subpart provides rules under which certain wage and salary increases in excess of the standard may be permitted with respect to an appropriate employee unit for any control year.

(b) *Overall limitation on exceptions.* Except as provided in §§ 201.15(c), 201.16, 201.17, and 201.30, the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, whether any or all of the exceptions described in this subpart are applicable, shall not exceed 7 percent.

§ 201.12 Exception for certain tandem relationships.

Increases in wages and salaries pursuant to a tandem relationship may be permitted as an exception to the standard if a party at interest demonstrates that—

(a) *Increase in excess of standard.* Such increase in the employment contract or pay practice to which a tandem relationship is claimed is in excess of the standard;

(b) *Maximum 6-month lag period.* Such contract or pay practice became effective not more than 6 months prior to the proposed effective date of the increase in the tandem-claiming unit;

(c) *Relationship factors.* The amount and nature of the increases in the tandem-claiming unit have been generally equal in value to and the timing has been directly related to those of another unit of employees of the same employer or of other employers within a commonly recognized industry or local labor market area; and

(d) *Past practice.* The same relationship between the tandem-claiming unit and the unit to which tandem is claimed has been established as a past practice for 5 consecutive years or in the immediately preceding two consecutive collective-bargaining agreements.

§ 201.13 Exception for essential employees.

Increases in wages and salaries may be permitted as an exception to the standard if an employer demonstrates that—

(a) *Attraction and retention of employees.* Such increases which exceed the standard are necessary to attract or retain employees essential to the efficient operation of the employer;

(b) *Intensive recruiting activity.* A significant proportion of vacancies has been experienced in the appropriate employee unit, despite intensive recruiting activity over a period of at least 3 months;

(c) *Conditions of employment.* There has been no significant deterioration or reduction in other conditions of employment; and

(d) *Reasonable expectation.* There is a reasonable expectation that an increase will be effective in recruiting or maintaining a pool of qualified employees.

§ 201.14 Exception for certain catchup increases.

(a) *In general.* Subject to the provisions of this section, an exception to the standard with respect to an appropriate employee unit may be claimed for catchup increases pursuant to a successor employment contract entered into or a pay practice established prior to November 14, 1972.

(b) *Employment contracts.* If the sum of the annual percentage of increases, computed pursuant to paragraph (e) of this section with respect to a prior succeeded employment contract, is less than the sum of a percentage increase of 7 percent per year for each year of such prior succeeded contract, the difference between such two sums may be added to 5.5 percent to determine the maximum permissible annual aggregate wage and salary increase for the appropriate control year under the successor contract.

(c) *Pay practices.* If the sum of the annual percentage of increases, computed pursuant to paragraph (e) of this section with respect to a pay practice, is less, in the preceding 3 years, than the sum of a percentage increase of 7 percent per year for each of such preceding 3 years, the difference between such two sums may be added to 5.5 percent to determine the maximum permissible annual aggregate wage and salary increase for the appropriate control year under a pay practice.

(d) *Special rules*—(1) *Limitation.* Except as provided in subparagraph (2) of this paragraph, the exceptions provided in paragraphs (b) and (c) of this section may be claimed with respect to the appropriate control year under a successor employment contract that succeeds a contract expiring on or after July 1, 1972, or under a pay practice established on or after July 1, 1972, only if the average straight-time hourly rate determined at the expiration of the prior succeeded contract or immediately prior to the establishment of the pay practice for which the exception is claimed is $3 or less. The average straight-time hourly rate shall be determined pursuant to § 201.55 of this part. If a successor contract succeeds a contract expiring on or before June 30, 1972, and is entered into on or after July 1, 1972, the exception provided under paragraph (b) of this section may be claimed without regard to the $3 limitation.

(2) *Certain pay practices.* The limitation set forth in subparagraph (1) of this paragraph shall not apply to a pay practice established by an employer which is a State or local governmental unit or an instrumentality thereof, if—

(i) Such pay practice next succeeds a pay practice which expired prior to July 1, 1972, and

(ii) Such employer was prevented by the law of the jurisdiction from establishing such successor pay practice prior to July 1, 1972.

(3) *Waiver of cutoff date.* A catchup exception may be claimed by an employer which is a State or local governmental unit or an instrumentality thereof with respect to a pay practice which next succeeds a pay practice expiring prior to July 1, 1972, even if such successor pay practice is not established prior to November 14, 1972.

(e) *Calculation of annual increase*—(1) *Formula.* In any case in which a computation is required to determine the annual increase in the catchup base compensation rate with respect to an appropriate employee unit pursuant to paragraph (b) or (c) of this section, such annual increase shall be stated as a percentage which is determined by dividing the sum of—

(i) The total adjustment in the average straight time hourly rate, plus

(ii) The total adjustment in the average hourly benefit rate excluding employer contributions to qualified benefit plans referred to in § 201.58(b),

by the catchup base compensation rate in effect at the end of the preceding catchup year. For purposes of this section the catchup base compensation rate shall consist of the average straight time hourly rate (determined for catchup years, as appropriate, in the manner described to in § 201.55(a)), and the average hourly benefit rate (determined for catchup years, as appropriate, in the manner described in § 201.56(a)) excluding employer contributions to qualified benefit plans. Moreover, for purposes of this section, the total adjustment in the average straight time hourly rate for

each catchup year under a prior succeeded contract or prior succeeded pay practice shall include any increase in such rate otherwise excludible in a control year pursuant to § 201.57. Compensating adjustments for changes in the composition of an appropriate employee unit with respect to average length of service or average skill levels shall not be permitted.

(2) *Calculation illustrated.* The application of this section may be illustrated by the following examples.

Example (1). A 2-year collective bargaining agreement between Employer A and Union X expired on May 31, 1972. The catchup base compensation rate on that date was $3.80 for the employees represented by Union X. Following extensive negotiations, Employer A and Union X reached a successor agreement on July 10, 1972, which was ratified by the employees on July 15, 1972. The successor agreement is retroactive in effect to June 1, 1972, and runs through May 31, 1974. If the sum of the percentage increases for the two catchup years is less than 14 percent, Employer A may claim a catchup exception in the control year beginning June 1, 1972, although the successor agreement was neither agreed to nor ratified prior to July 1, 1972.

Example (2). Assume the same facts as in Example (1). The average straight-time hourly rate for the last payroll period ending prior to May 31, 1970 was $3.20, for the last payroll period ending prior to May 31, 1971 was $3.35, and for the last payroll period ending prior to May 31, 1972 was $3.62. The average hourly benefit rate, disregarding employer contributions subject to the qualified benefits standard described in § 201.58(d), at the rate in effect on May 31, 1970 was $0.16, at the rate in effect on May 31, 1971 was $0.17, and at the rate in effect on May 31, 1972 was $0.18. The total adjustment in the first catchup year of the prior succeeded contract was $0.16 [adjustment in the average straight time hourly rate ($3.35—$3.20) plus adjustment in the average hourly benefit rate excluding qualified fringe benefits ($0.17—$0.16)]. Such total adjustment of $0.16 divided by $3.36 ($3.20+$0.16), the catchup base compensation rate in effect on May 31, 1970, provides a 4.8 percent increase in the first catchup year of the prior succeeded contract. The total adjustment in the second catchup year of the prior succeeded contract was $0.28 [($3.62—$3.35) plus ($0.18—$0.17)]. Such total adjustment of $0.28 divided by $3.52 ($3.35+$0.17), the catchup base compensation rate in effect on May 31, 1971, provides an 8.0 percent increase in the second catchup year of the prior succeeded contract. Thus, the maximum permissible annual aggregate wage and salary increase available to Employer A for the first control year (the period beginning June 1, 1972) under the successor collective bargaining agreement is 6.7 percent [(14 percent—12.8 percent) plus 5.5 percent].

§ 201.15 Exception for qualified merit plans.

(a) *Successor contracts or successor pay practices.* Wage and salary increases granted pursuant to a qualified merit plan (as defined in paragraph (b) of this section), provided for in an employment contract or pay practice previously set forth which existed prior to November 14, 1971, and which is continued in a successor employment contract or successor pay practice effective after November 13, 1971, without any changes of terms or administrative practice may be permitted as an exception to the standard. For purposes of the preceding sentence, a change in the maximum or minimum terminal points of a pay rate range in a qualified merit plan shall not be deemed a change of terms if the ratio of such maximum to such minimum terminal point is not increased. For purposes of this section, a qualified merit plan provided for in a pay practice which meets all of the criteria set forth in the first sentence of this paragraph, except that such pay practice is not "previously set forth" within the meaning of § 201.35(b) because the aggregate amount to be expended cannot be documented as being finally and formally decided prior to November 14, 1971, shall be treated as a successor pay practice otherwise eligible for the exception provided in this section.

(b) *Qualified merit plan defined.* For purposes of paragraph (a) of this section, the term "qualified merit plan" means a merit plan which, prior to November 14, 1971, was reduced to writing and communicated either to the management personnel responsible for implementing the plan or to the employees covered by the plan, and which written plan—

(1) Applies to particular jobs, job classifications, or positions with respect to which the duties and responsibilities of employees are specified;

(2) Specifies merit pay rate ranges with respect to such jobs, job classifications, or positions;

(3) Clearly defines policies and establishes practices (with respect to review of an employee's performance) for determining merit pay and the size and frequency of merit pay increases with respect to such jobs, job classifications, or positions; and

(4) Establishes a system of administrative control.

(c) *Special rules.* Wage and salary increases granted pursuant to a merit plan provided for in an employment contract existing prior to November 14, 1971, and continued in a successor employment contract entered into prior to April 19, 1972, shall be excluded from the computation of the annual aggregate increase in the base compensation rate. Such merit plan may continue to operate according to the following rules: Any increases applied to a rate range under such merit pay plan shall be considered a general increase in wages and salaries under the regulations in this chapter. However, individual increases within the rate range under such plans shall not be considered a wage and salary increase under such regulations.

§ 201.16 Exception for governmental wage determinations.

In any case to which the provisions of § 201.57(f) (relating to exclusions from adjustment computations with respect to Federal agency wage determinations and State and local prevailing wage laws) apply, an exception to the standard may be granted in order to permit an increase for those employees in the same appropriate employee unit who work at the same site, plant, or location who have not received an increase pursuant to such section sufficient to maintain average historical wage and salary differentials among jobs, job classifications, or positions. The average historical wage and salary differential shall be determined over the preceding 3 years and must be consistent with prior practice during such period. Such differential must have been in effect within the unit for at least 3 years. In the event that such unit has been in existence for less than 3 years or if the average historical wage and salary differential is not representative because of corrections made in such differentials to end inequities during the preceding 3 years, the average historical wage and salary differential may be determined by reference to the period of the unit's existence or by reference to the differential existing after any such corrections.

§ 201.17 Exception for tandem qualified benefit plans.

In any case to which the provisions of § 201.57(g) (relating to exclusions from adjustment computations in the case of certain employer contributions to qualified benefit plans) apply, an exception to the standard may be granted to a tandem-claiming appropriate employee unit, if—

(a) *Maximum 12-month lag period.* The contract or pay practice covering the qualified benefit plan (see § 201.58) to which a tandem relationship is claimed became effective not more than 12 months prior to the effective date of the contract or pay practice providing for the increase in qualified benefits in the tandem-claiming unit;

(b) *Relationship factors.* The nature and levels of qualified benefits in the tandem-claiming unit have been generally equal or closely comparable to, and the timing of changes in benefits has been directly related to, those of another employee unit of the same employer, or of other employers within the same commonly recognized industry, local labor market area, or established unit or reference group of employees for determination of qualified benefits; and

(c) *Historical tandem relationship.* The tandem relationship has been established as a past practice for 5 consecutive years or in the immediately preceding two collective bargaining agreements.

§ 201.18 Exception for intraunit inequities.

(a) *In general.* An exception to the standard will be permitted if the employer demonstrates to the Pay Board (or its delegate) that wage and salary increases in excess of the standard are necessary to correct intraunit inequities (as defined in paragraph (b) of this section). In order to qualify for this exception the employer must prepare and submit a comprehensive program which describes the cause or nature of such inequity and the manner in which such inequity is proposed to be corrected. Such program must show each of the following criteria:

(1) Job classifications that are described with sufficient detail to identify differences in job content based on relative value of the factors by which the classifications are measured (including e.g. skill, physical strain, responsibility, etc.).

(2) A realignment of wage rates that follows a systematic and orderly method for classifying, ranking or rating all of the job classifications in the unit, giving effect to skill, effort, responsibility, working conditions and other factors reflected in the classification content.

(3) Rate relationships (expressed in dollars and cents) that are established in accordance with accepted methods for job classification, historical practice in an industry, or through some other demonstrable guide in general use for classification purposes, including an explanation of the derivation of factor weightings on which the system is based.

(4) Rate relationships (expressed in dollars and cents) that reflect the different levels of skills as measured by grading selected jobs from the lowest to the highest level, on each of which a significant number of employees are grouped.

(5) A computation of the percentage increase in the wage rates or rate ranges for each job classification in the unit requesting exception pursuant to the methods described in paragraph (d) of this section.

(b) *Intraunit inequity defined.* For purposes of this section, the term "intraunit inequity" means an inequitable pay situation within an appropriate employee unit resulting from the introduction of new or changed technology whereby—

(1) Technological changes are made or introduced in equipment, methods, materials, or processes, and

(2) A comprehensive change is required in production methods and techniques which affect not less than 10 percent of the job classifications and not less than 25 percent of the employees in such appropriate employee unit.

(c) *Limitations on exception.* The maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit for the control year this exception is claimed shall not exceed 7 percent: *Provided, however,* Such maximum shall be reduced to the extent that the amount necessary for the correction of intraunit inequities is less than 1.5 percent of the unit's base compensation rate. Once this exception has been claimed and allowed with respect to an appropriate employee unit for a control year, it may not be claimed in any succeeding control year with respect to the same unit.

(d) *Computation of increase in job classification rate or rate ranges.* The computation referred to in paragraph (a)(5) of this section shall exclude "red circle" rates which become personal rates for incumbents and shall reflect, as appropriate, the following percentages—

(1) *Single job classification rates.* For single job classification wage rates, the percentage difference between the weighted average of current job rates and the weighted average of the proposed job rates.

(2) *Job reclassifications within existin rate ranges.* For the reclassification of jobs without change in the existing rate ranges, the percentage difference between the weighted average of the rates actually paid within the range for each job classification prior to reclassification and the weighted average of the rates to be paid after such reclassification.

(3) *Revised rate range structure.* For revised rate range structures, the percentage difference between the weighted average of the midpoint of each job classification in the existing structure and the weighted average of the midpoint of each proposed job classification in the revised structure.

§ 201.29 Procedures for exceptions.

Exceptions pursuant to §§ 201.12, 201.13, 201.16, 201.17, and 201.18 shall require prior approval of the Pay Board or its delegate. Exceptions pursuant to §§ 201.14 and 201.15 shall be self-executing for Category II and Category III pay adjustments but reports of such pay adjustments shall be made. The requirements for obtaining prior approval of Category I pay adjustments or other proposed pay adjustments, and for reporting pay adjustments with respect to which prior approval is not required pursuant to the provisions of this part, are set forth in Part 202 of this chapter.

§ 201.30 Exceptions on a case-by-case determination.

When the Board reviews new contracts and pay practices in individual cases with respect to payment for services rendered in any control year and in its development of additional criteria for exceptions, it shall consider such factors as changes in productivity and the cost of living, on-going collective bargaining and pay practices, the equitable position of the employees involved, and such other factors as are necessary to foster economic growth, to promote improvement in the quality of governmental service, and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits.

Subpart C—Retroactive and Deferred Increases

§ 201.31 Retroactive increases pursuant to section 203(c)(2) of the Act.

(a) *In general.* Subject to the provisions of this section, increases in wages and salaries which were scheduled to take effect during the freeze and were not paid as a result of orders issued pursuant to the Act, may be made retroactively after November 13, 1971.

(b) *Agreements or pay practices prior to August 15, 1971.* Increases in wages and salaries referred to in paragraph (a) of this section may not be paid unless such increases were—

(1) *Employment contract.* Agreed to in an employment contract executed, entered into, or in effect prior to August 15, 1971; or

(2) *Pay practice.* Contained in a pay practice (including, e.g., schedule of wages and salaries adopted by an employer) announced, reduced to writing, placed in effect, or otherwise clearly established prior to August 15, 1971.

(c) *Procedures for payment of retroactive increases up to 7 percent.* If the aggregate of increases in wages and salaries referred to in paragraph (a) of this section does not exceed 7 percent, such increases may be paid provided that—

(1) *Category II and III pay adjustments.* In the case of a Category II pay adjustment or a Category III pay adjustment (as defined in §§ 202.2(a)(2) and (3) of this chapter, respectively), the employer certifies by letter to the appropriate district director of Internal Revenue within 20 days subsequent to payment that the requirements of this section have been fulfilled; or

(2) *Category I pay adjustments.* In the case of a Category I pay adjustment (as defined in § 202.2(a)(1) of this chapter), the Board has received prenotification of such adjustment and a challenge to determine whether the requirements of this section have been fulfilled has not been made by a party at interest, the Chairman of the Board, or two or more other members of the Board within 28 days of notice of such prenotification or within 28 days of receipt by the Board of additional proof requested to support the fact that such requirements have been fulfilled.

(d) *Procedures for payment of retroactive increases exceeding 7 percent.* If the aggregate of increases in wages and salaries referred to in paragraph (a) of this section exceeds 7 percent, such increases may be paid provided that the Board has received prenotification of the proposed payment and there has not been a challenge by a party at interest, the Chairman of the Board, or two or more members of the Board within 28 days of receipt of such prenotification or within 28 days of receipt by the Board of additional proof requested to support the fact that such requirements have been fulfilled.

(e) *Special rules*—(1) *Time periods.* For purposes of computing any time periods prescribed in paragraphs (c) and (d) of this section, the rules contained in § 205.5 of this chapter shall apply.

(2) *Computation of percentage increase.* The percentage of aggregate increases referred to in paragraphs (c) and (d) of this section shall be determined with respect to an appropriate employee unit (without regard to time weighting over the number of days any such increase was effective during the freeze) by dividing the sum of—

(i) The total adjustment in the average straight time hourly rate (as determined pursuant to § 201.55(a)) resulting from such increases, plus

(ii) The total adjustment in the average hourly benefit rate (as determined pursuant to § 201.56(a)) resulting from such increases

by the base compensation rate in effect on the day before any such increase was scheduled to take effect.

(3) *Challenges.* In the case of any challenge made pursuant to paragraph (c)(2) or (d) of this section, a determination will be made whether the proposed retroactive payment of the wage and salary increase is unreasonably inconsistent with the standard or any of the exceptions thereto as set forth in Subpart B of this part.

§ 201.32 Retroactivity pursuant to certain consecutive agreements or practices and certain tandem relationships.

(a) *In general.* Subject to the provisions of this section, increases in wages and salaries which were scheduled to take effect during the freeze and were not paid as a result of orders issued pursuant to the Act, may be made retroactively after November 13, 1971.

(b) *Certain consecutive agreements or practices.* A payment referred to in paragraph (a) of this section may be made if—

(1) *Expired agreement, schedule, or practice prior to August 16, 1971.* A prior succeeded employment contract or a prior succeeded pay practice (including, e.g., a schedule of wages and salaries adopted by an employer) expired before August 16, 1971;

(2) *Successor agreement, schedule, or practice adopted before November 14, 1971.* Such employment contract or pay practice was followed by a successor contract, or by a successor pay practice before November 14, 1971; and

(3) *Retroactivity prior to November 14, 1971.* Evidence is presented that retroactivity is an established past practice between the employer and his employees or retroactivity was provided for in the successor contract referred to in subparagraph (2) of this paragraph.

(c) *Certain tandem relationships.* A payment referred to in paragraph (a) of this section may be made if—

(1) *Contract or pay practice before August 16, 1971.* The employment contract covering the appropriate employee unit to which a tandem relationship is claimed was reached or the pay practice covering the unit to which such relationship is claimed was put into effect prior to August 16, 1971;

(2) *Maximum 3-month lag period—*(i) *Contract to contract.* In the case of a tandem relationship claimed to an appropriate employee unit covered by the terms of an employment contract, the prior employment contract covering such unit expired no more than 3 months before the expiration of the prior employment contract covering the appropriate employee unit claiming tandem,

(ii) *Pay practice to pay practice.* In the case of a tandem relationship claimed to an appropriate employee unit not covered by the terms of an employment contract, the effective date of the increase with respect to which such relationship is claimed, consistent with an historical practice, occurred no more than 3 months prior to the scheduled effective date (from August 15, 1971, to November 13, 1971) of the increase in the appropriate employee unit claiming tandem, or

(iii) *Pay practice to contract.* In the case of a tandem relationship claimed by a pay practice unit to an appropriate employee unit covered by the terms of an employment contract, the effective date of the increase with respect to which such relationship is claimed, consistent with an historical practice, occurred in the contract unit no more than 3 months prior to the scheduled effective date (from August 15, 1971, to November 13, 1971) of the increase in such pay practice unit;

(3) *Historical tandem relationship.* It can be shown the tandem relationship between the appropriate employee units has been clearly established for 5 years or, in the case of a tandem relationship referred to in subparagraph (2)(i) of this paragraph, in the immediately preceding two consecutive agreements including the agreement referred to in such subparagraph; and

(4) *Historical retroactivity.* It can be shown that retroactivity is a clearly established practice in the appropriate employee unit claiming tandem or, if such unit is covered by the terms of an employment contract, retroactivity was agreed to by the parties prior to November 14, 1971.

(d) *Tandem relationship defined.* For purposes of paragraph (c) of this section, the term "tandem relationship" means a well established and consistently maintained practice whereby the precise timing, amount, and nature of general increases in wages and salaries of a given appropriate employee unit have so followed those of another such unit of employees of the same employer or of other employers within a commonly recognized industry (such as a Standard Industrial Classification two-digit category) that a general increase, in the normal operation of the practice, would have been put into effect and have been applicable to work performed on or before November 13, 1971, but for the operation of the freeze.

(e) *Procedure for payment of retroactive increases under this section.* No payment referred to in paragraph (a) of this section may be made unless a determination has been made by the appropriate district director of Internal Revenue at the request of a party at interest, with right of appeal to the Board in the event of an adverse determination, that the requirements for retroactive payment under paragraph (b) or (c) of this section, as appropriate, have been satisfied.

§ 201.33 Retroactivity for certain low wage employees and for certain one-time benefits.

(a) *In general.* Subject to the provisions of this section, increases in wages and salaries which were scheduled to take effect during the freeze and were not paid as a result of orders issued under the Act, may be made retroactively after November 13, 1971.

(b) *Certain low wage employees.* If the employer determines that an employee in an appropriate employee unit, whose straight-time hourly rate of pay prior to the freeze, was $2 per hour or less, would have become eligible to receive an increase if the freeze had not occurred, an increase in wages and salaries referred to in paragraph (a) of this section may be made to such employee.

(c) *Certain one-time benefits.* (1) If the employer determines that an employee in an appropriate employee unit would have become eligible to receive a new or increased benefit under a fringe benefit plan if the freeze had not occurred, and the employee cannot otherwise (because of death, retirement, etc., during the freeze) become eligible for the benefit after the freeze, an increase in wages and salaries referred to in paragraph (a) of this section may be made with respect to that benefit.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). A, an employee-member of an appropriate employee unit in a company, died on September 16, 1971. Pursuant to a collective bargaining agreement reached before the freeze, A's employer was to have increased his contribution to the group life insurance plan applicable to such unit on September 1, 1971. Under the plan death benefits were scheduled to be increased up to $2,000 per employee based on age and length of employee service to the company. The life insurer is willing to pay the increased benefit to A's estate if the employer will retroactively pay the unit's increased contribution to the group life insurance plan. A retroactive payment may be made by the employer of the scheduled increase in group life insurance premiums for the appropriate employee unit in such a case to remedy the severe inequity to an employee such as A who, because of his death during the freeze, could not become eligible for the increased benefit after the freeze ended.

Example (2). B, an employee-member of an appropriate employee unit in a company, retired on October 31, 1971. Pursuant to a collective bargaining agreement reached before the freeze, B's employer was to have increased the lump-sum payment on or after October 1, 1971, available to employees of the unit for vacation accrued but not taken prior to retirement. A retroactive increase in the lump-sum payment of accrued vacation may be made to B who, because of his retirement during the freeze, could not become eligible for the increased benefit after the freeze.

(d) *Compliance checks.* Any determination and payment made by an employer under the provisions of this section shall be subject to vertification upon request with respect to whether such determination and payment comply with the regulations issued under this title.

§ 201.34 Increases in wages and salaries scheduled after November 13, 1971, for services rendered in certain periods on or before such date.

(a) *In general.* Subject to the provisions of this section, an increase in wages and salaries with respect to an appropriate employee unit for services rendered before November 14, 1971, may be made retroactively on or after such date if—

(1) *Expired agreement, schedule, or practice prior to August 15, 1971.* The prior succeeded employment contract or pay practice (including, e.g., a schedule of wages and salaries adopted by an employer) expired before August 15, 1971;

(2) *Successor agreement, schedule, or practice adopted after November 13, 1971.*

Such employment contract or pay practice was followed by a successor contract or by a successor pay practice after November 13, 1971;

(3) *Retroactivity prior to August 15, 1971.* Retroactivity—

(i) Had been agreed to by the parties prior to August 15, 1971, or had been provided for in the immediately preceding two employment contracts (including the prior succeeded contract) terminating prior to August 15, 1971, or

(ii) Was provided for by the employer in the immediately preceding two pay practices (including the prior succeeded pay practice) terminating prior to August 15, 1971; and

(4) *No change in bargaining position.* In the case of a successor contract referred to in subparagraph (2) of this paragraph, it is demonstrated that the parties did not change their position during negotiations in order to compensate for or absorb the impact of the freeze.

(b) *Retroactivity period.* Payment of retroactive wage and salary increases that are provided for in successor employment contracts or successor pay practices (described in paragraph (a)(2) of this section) may be made for services rendered for the period beginning the day after the expiration date of the prior succeeded contract or prior succeeded pay practice and ending on November 13, 1971.

(c) *First control year*—(1) *Base compensation rate.* Wage and salary increases paid retroactively pursuant to paragraphs (a) and (b) of this section shall not be included in the base compensation rate (§ 201.54) with respect to an appropriate employee unit for measuring increases in the first control year, unless specifically authorized by the Pay Board, subject to whatever terms and conditions it may impose, in a decision and order rendered pursuant to § 201.30.

(2) *Chargeable increases.* Unless included in the base compensation rate as provided in subparagraph (1) of this paragraph by decision and order of the Pay Board, continued payment after November 13, 1971, of increases paid retroactively pursuant to paragraphs (a) and (b) of this section shall be treated as chargeable increases with respect to an appropriate employee unit in the first control year. Thus, continued payment of a retroactive wage and salary increase is not authorized to the extent such increase and any subsequent increase occuring after such date exceed the maximum permissible annual aggregate wage and salary increase for such unit during such control year.

(d) *Procedures for payment*—(1) *In general.* No increases referred to in paragraph (a) of this section may be made unless the procedures set forth in this paragraph have been followed. Such procedures shall be in addition to the provisions of Part 202 of this chapter and shall include, as appropriate, a request for exception with respect to continued payment of any such increase after November 13, 1971, and with respect to payment of any subsequent increases scheduled after such date to the extent the total of such increases exceeds the standard for the control year. Notwithstanding the preceding two sentences, such adjustment may not be included in the base compensation rate unless specifically requested by a party at interest and authorized by the Board in a decision and order rendered pursuant to § 201.30. See paragraph (c) of this section.

(2) *Category I pay adjustment.* In the case of a Category I pay adjustment (as defined in § 202.2(a)(1) of this chapter), the Board shall receive prenotification of such adjustment (and any subsequent adjustments) and such adjustment shall be approved before payment can be made.

(3) *Category II pay adjustment.* In the case of a Category II pay adjustment (as defined in §202.2(a)(2) of this chapter), the employer shall determine that the requirements of this section have been met and, within 10 days of making such adjustment, shall report the adjustment (and any subsequent adjustments for the control year) to the Board. Such report shall include a certification that the requirements of this section have been met.

(4) *Category III pay adjustment.* In the case of a Category III pay adjustment (as defined in § 202.2(a)(3) of this chapter), the employer shall determine that the requirements of this section have been met and, within 10 days of making such adjustment, shall report the adjustment (and any subsequent adjustments for the control year) to the appropriate district director of Internal Revenue if the total of such adjustments exceeds the standard. Such report shall include a certification that the requirements of this section have been met.

§ 201.35 Wage and salary increases effective after November 13, 1971.

(a) *In general.* Unless otherwise provided by this section, employment contracts and pay practices previously set forth which existed prior to November 14, 1971, will be allowed to operate according to their terms. However, any such specific contract or pay practice, when challenged by a party at interest, by the Chairman of the Pay Board, or by two or more other members of the Board, is subject to a review to determine whether any wage and salary increase granted pursuant to such contract or pay practice is unreasonably inconsistent with the criteria established by the Board. In the event of a challenge, these terms shall be allowed to remain in effect unless and until the Board rules otherwise. Notwithstanding any other provision of this chapter a pay practice which does not by its own terms, or by applicable provisions of paragraph (c) of this section, expire earlier, will be deemed to expire on November 13, 1972.

(b) *"Previously set forth" defined.* Except as provided in Subpart F of this part, for purposes of this part, a pay practice shall be "previously set forth" only if it can be documented that prior to November 14, 1971, an adjustment to wages and salaries, or, in the case of a merit plan, the aggregate amount to be expended, was—

(1) Decided finally and formally in accordance with established procedures, and

(2) Communicated to the management personnel responsible for implementing the pay adjustment or to the employees affected.

For purposes of the preceding sentence, a formula for determining general adjustments to wages and salaries is not a pay practice previously set forth.

(c) *Merit plans*—(1) *In general.* A merit plan provided for in an employment contract or a pay practice, referred to in paragraph (a) of this section, will be allowed to operate according to its terms in accordance with such paragraph until such contract or pay practice expires.

(2) *Pay practices previously set forth.* For purposes of this section, a merit plan contained in a pay practice previously set forth will be deemed to expire on the day before the effective date of any of the following changes or modifications to the merit plan—

(i) An increase or change in the rates or rate ranges from those in effect on November 13, 1971,

(ii) An increase in the aggregate amount to be expended for merit increases above the aggregate amount as determined prior to November 14, 1971,

(iii) A change in the job classifications to which the rates or rate ranges apply, or

(iv) A change in the terms or conditions of the plan with respect to any job classification to which it applies, or a change in any policy for determining the size and frequency of merit pay adjustments or a change in any administrative controls.

The expiration of a pay practice under this paragraph shall not disqualify a pay practice from being a successor pay practice under § 201.15 if it otherwise qualifies under that section.

(3) *Employment contracts.* The expiration of an employment contract which operates according to its terms pursuant to this section and which contains a merit plan shall not disqualify such merit plan from operating in a successor employment contract under § 201.15, if it otherwise qualifies under that section.

(d) *Board review.* For purposes of the review referred to in paragraph (a) of this section, the Board will consider such factors as changes in productivity and the cost of living, on-going collective bargaining and pay practices, the equitable position of the employees involved, and such other factors as are necessary to foster economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw material, localized shortages of labor, and windfall profits.

(e) *Notice requirement*—(1) *In general.* A notice shall be given to the Pay Board prior to the scheduled date of any increase to be paid pursuant to an employment contract or pay practice referred to in this section when such in-

crease would affect an appropriate employee unit of 1,000 or more employees and would cause the total of such increases to be in excess of 7 percent for a control year. The timing of such notice and the dates on which such increase may be put into effect shall be governed by the provisions of this paragraph. For purposes of this paragraph, a fair and reasonable estimate shall be used in determining whether contingent increases (such as cost of living adjustments) will cause the total of such increases to exceed 7 percent. Furthermore, such notice shall be in accordance with the instructions contained in paragraph (f) of this section.

(2) *Additional information.* In addition to the notice requirements of subparagraph (1) of this paragraph, on or after June 24, 1972, the Board may require a party at interest to furnish adequate and complete supplemental information as to the factors the Board considers necessary to determine whether the increase referred to in such subparagraph is unreasonably inconsistent with the standard, exceptions, or the review criteria referred to in paragraph (d) of this section.

(3) *Increases scheduled from April 19, 1972, through July 17, 1972.* In the case of increases scheduled to take effect after April 18, 1972, and prior to July 18, 1972, notice of such increases shall be given to the Pay Board before May 19, 1972, provided that no part of such increase shall be paid or received until 30 days after a party at interest furnishes any additional information required pursuant to subparagraph (2) of this paragraph.

(4) *Increases scheduled from July 18, 1972, through September 22, 1972.* No part of any increase scheduled to take effect after July 17, 1972, and prior to September 23, 1972, shall be paid or received until the latest of 60 days after notice of such increase has been given to the Pay Board, 30 days after a party at interest furnishes any additional information required pursuant to subparagraph (2) of this paragraph, or the scheduled effective date of such increase.

(5) *Increases scheduled on or after September 23, 1972.* No part of any increase scheduled to take effect on or after September 23, 1972, shall be paid or received until the latest of 90 days after notice of such increase has been given to the Pay Board, 60 days after a party at interest furnished any additional information required pursuant to subparagraph (2) of this paragraph, or the scheduled effective date of such increase.

(f) *Notification instructions.* The notice required by paragraph (e) (1) of this section shall be submitted on forms provided by the Pay Board. Such notice shall be accompanied by a full statement of facts prepared by a party at interest showing good cause as to why such increase is not unreasonably inconsistent with the standard, exceptions, or the review criteria referred to in paragraph (d) of this section.

§ 201.36 Funds raised or provided prior to August 15, 1971 for wage and salary increases on and after such date.

(a) *In general.* Subject to the provisions of paragraphs (b) and (c) of this section, any increases in wages and salaries which have been or would be withheld under the authority granted by the Act are lawfully due and payable, if a determination is made that such increases were provided for by law, contract, agreement, or practice established prior to August 15, 1971, and that prices have been advanced, productivity has been increased, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases.

(b) *Determinations*—(1) *Category I pay adjustments.* A Category I pay adjustment (as defined in § 202.2(a) (1) of this chapter) of the type described in paragraph (a) of this section may be put into effect provided that—

(i) The employer has filed a prenotification in the manner prescribed by the Pay Board declaring the intention to put such a pay adjustment into effect and detailing the factual basis for qualification under paragraph (a) of this section;

(ii) Twenty-eight days have passed since such prenotification has been filed with the Board or, if appropriate, 28 days have passed since any additional proof requested by the Board has been received by the Board; and

(iii) The proposed pay adjustment has not been challenged by a party at interest, by the Chairman of the Pay Board, or by two or more other members of the Board within the appropriate time period described in subdivision (ii) of this subparagraph.

(2) *Category II and Category III pay adjustments.* A Category II or Category III pay adjustment (as defined in § 202.2(a) (2) and (3) of this chapter, respectively) of the type described in paragraph (a) of this section may be put into effect provided that—

(i) The wage and salary increases pursuant to such pay adjustment meet the requirements of paragraph (c) (1), (2), and (3) of this section; and

(ii) The employer certifies by letter to the appropriate district director of Internal Revenue not later than 20 days after such pay adjustment is put into effect that the requirements referred to in subdivision (i) of this subparagraph have been met.

(3) *By the Internal Revenue Service.* A party at interest claiming authority to make or receive payment of a wage and salary increase pursuant to paragraph (a) of this section, after giving notice to the other parties at interest, may apply to the Internal Revenue Service for a determination that the requirements of paragraph (a) of this section have been met. The application to the Internal Revenue Service shall detail the manner in which one or more of each of the requirements of paragraph (c) (1), (2), and (3) of this section have been met, or that the requirements of paragraph (a) of this section have otherwise been met. When the Service makes a determination that such requirements have or have not been met the Service will provide for notice upon request to parties at interest of the determination. Payment of an increase determined to be permissible under paragraph (a) of this section may begin within 20 days of such determination by the Service unless an appeal is taken by the Pay Board. The Service may transmit to the Board for determination any application based upon a claim that the requirements of paragraph (a) of this section have been met without meeting the requirements of paragraph (c) (1), (2), and (3) of this section.

(4) *By the Board.* If the Pay Board determines with respect to (i) a challenge of an increase under subparagraph (1) of this paragraph, or (ii) an appeal from a final determination by the Internal Revenue Service with respect to an increase under subparagraph (3) of this paragraph, or (iii) a transmittal by the Internal Revenue Service with respect to an increase under subparagraph (3) of this paragraph, that such payment qualifies under paragraph (a) of this section, the increase may be payable immediately after the Board's final decision.

(c) *Satisfaction of requirements.* For purposes of paragraphs (a) and (b) of this section, the factual requirements of paragraph (a) are deemed satisfied with respect to whether—

(1) The amount of a wage and salary increase provided for by law, contract, agreement, or practice was determined and definite prior to August 15, 1971, if—

(i) A contract was executed, entered into, or became effective prior to August 15, 1971, or

(ii) A pay practice was announced, reduced to writing, placed in effect, or otherwise clearly established prior to August 15, 1971, or

(iii) A law, ordinance, or resolution, or a rule, regulation, or decision of a governmental agency having the effect of law, became effective or was finally enacted by signature of the chief executive of the governmental unit prior to August 15, 1971, or by failure of the chief executive to veto prior to August 15, 1971, or by completion of all action required for final enactment under the constitution and laws applicable to the governmental unit;

(2) Prices have been advanced, productivity has been increased, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for, if—

(i) New taxes were enacted or levied or existing taxes were increased prior to August 15, 1971, which provide revenue for the fiscal year in which the wage and salary increase is to take effect, or

(ii) Appropriations have been passed or a budget of a governmental unit has been adopted prior to August 15, 1971, for the fiscal year in which the wage and salary increase is to take effect, and the appropriations or budget contain funds

from which the increase would be payable, or

(iii) Prices have been advanced prior to August 15, 1971, or

(iv) An employer and the employee members of the unit, or their collective bargaining agent, have taken action prior to August 15, 1971, to modify work practices either relating to the introduction of new or changed equipment methods or processes, or otherwise, which is designed to and does result in an increase in the productivity of the appropriate employee unit, or

(v) An employer has taken action prior to August 15, 1971, which has otherwise raised or provided funds to provide for the wage and salary increase;

(3) The prices advanced, productivity increases made, taxes raised, appropriations made, or funds otherwise raised or provided for are in order to cover a wage and salary increase, if—

(i) The advancement of prices prior to August 15, 1971, was in direct anticipation of the wage and salary increase, and no additional advance in prices is or has been required on or after August 15, 1971, in order to raise funds to cover the wage and salary increases for the balance of the fiscal year in which it takes effect, or

(ii) Action modifying work practices to increase productivity taken by an employer and the employee members of the unit, or their collective bargaining agent, was taken to provide for a wage and salary increase and the resulting increase in productivity is adequate to cover the wage and salary increase, or

(iii) The taxes were raised or levied to fund a budget containing proposed expenditures for the wage and salary increase, and the taxes raised or levied, the existing taxes, and other resources of the taxing body are sufficient to cover the increases and all of the other projected expenditures of the taxing body for the fiscal year in which the increase takes effect, or

(iv) The amount of the appropriation or governmental budget item from which the wage and salary increase is payable is sufficient to cover the increase and all other projected expenditures to be made from the appropriation or budget item without any contemplated additional, supplemental, or deficiency appropriation or budget amendment during the fiscal year in which the increase takes effect, and without any contemplated transfer of funds appropriated for or intended for another purpose, or

(v) Action taken by an employer to otherwise raise or provide funds was taken in direct anticipation of a wage and salary increase and funds of sufficient amount to cover the cost of the wage and salary increase were raised or provided on or before August 15, 1971, or would be raised or provided thereafter without further action by the employer after August 15, 1971.

(d) *Special rule*—(1) *Price increases in anticipation of wage and salary increases.* If an employer raised the price for his products or services prior to August 15, 1971, in anticipation of wage and salary increases scheduled to be paid on or after August 15, 1971, and such increases were neither provided for in an employment contract nor provided for in a pay practice communicated to employees or otherwise established prior to August 15, 1971, then such increases that were not paid as a result of orders issued pursuant to the Act may be made retroactively after November 13, 1971.

(2) *Procedure for retroactive payment under this paragraph.* No payment referred to in subparagraph (1) of this paragraph may be made unless a determination has been made by the appropriate district director of Internal Revenue at the request of a party at interest, with right of appeal to the Board in the event of an adverse determination, that the requirements for retroactive payment under such subparagraph have been satisfied.

§ 201.40 Retroactivity on a case-by-case determination.

When the Board reviews a request for retroactive payment in individual cases, with respect to services rendered in any period prior to November 14, 1971, and in its development of further criteria for such payments, it shall consider factors such as on-going collective bargaining and pay practices, the equitable position of the employees involved, and such other factors as are necessary to foster economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits.

Subpart D—Violations, Sanctions, Fines and Penalties

§ 201.41 Violations.

(a) *In general.* Except as provided in paragraph (b) of this section, it shall be a violation of the provisions of this chapter, subject to the sanctions, fines, penalties, and other relief provided in the Act, for any person to—

(1) *Payment.* Pay, directly or indirectly, immediately or on a deferred basis, any portion of a wage and salary increase not authorized by the provisions of this chapter or by decision or order of the Pay Board;

(2) *Receipt.* Receive or accept, directly or indirectly, any portion of a wage and salary increase not authorized by the provisions of this chaper or by decision or order of the Pay Board;

(3) *Accessorial acts or attempts.* Induce, solicit, encourage, force, or require, or attempt to induce, solicit, encourage, force, or require, any other person to pay or to receive, directly or indirectly, any portion of a wage and salary increase not authorized by the provisions of this chapter or by decision or order of the Pay Board;

(4) *Compliance.* Fail or refuse to comply with a decision or order of the Pay Board or with any regulation issued pursuant to the Act, or induce, solicit, encourage, force, or require any other person to fail or refuse to comply with a decision or order of the Pay Board or with any regulation issued pursuant to the Act.

(5) *Executive or variable compensation.* Pay, grant, award, receive, accept, establish, or make changes in any item of executive or variable compensation without timely filing of such notices or reports or receiving approval thereof as required by the provisions of this chapter; or

(6) *Forbearance of rights.* Force or require any party at interest (as defined in § 201.3) to refrain or forbear from filing a pay challenge, request for exception, request for interpretation or ruling, prenotification, report, appeal, motion for reconsideration, or any other document or information permitted or required to be filed with the Pay Board, or to force or require any party at interest to withdraw any such document already filed.

(b) *Excepted acts*—(1) *Agreements for wage and salary increases.* Notwithstanding the provisions of paragraph (a)(3) of this section, it shall not be a violation to bargain for, request, contract for, or agree to (as contrasted with paying or receiving) a wage and salary increase in excess of the maximum permissible annual aggregate wage and salary increase.

(2) *Limitation on excepted acts.* The exception provided in subparagraph (1) of this paragraph shall not apply in any situation where the Pay Board has denied an appeal from a determination by the Internal Revenue Service, or rendered a decision on a pay challenge or request for an exception.

(c) *Illustrations.* The provisions of paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). On April 1, 1972, Employer A and Union X agreed to a general increase in excess of the general wage and salary standard to be effective May 1, 1972. Union X represents A's employees who are members of an appropriate employee unit containing less than 5,000 employees. On May 1, 1972, Employer A implemented only a 5.5 percent increase in the average straight-time hourly rate and only a 0.7 percent increase in qualified fringe benefits. On May 10, 1972, Employer A filed a request for exception with respect to the unpaid portion of the wage and salary increase agreed to in the contract. Since Employer A did not pay, and the employees represented by Union X did not receive, any portion of a wage and salary increase in excess of that authorized under the regulations, the parties at interest did not violate the provisions of this chapter.

Example (2). Assume the same facts as in Example (1), except that the appropriate employee unit contains 5,000 or more employees. Employer A paid and the employees of Union X received, an increase in wages and salaries which, pursuant to regulations in this chapter, may not be paid unless a timely prenotification has been filed and the Pay Board has approved the pay increase. Thus, the employer and the employees are in violation of the provisions of this chapter.

Example (3). Assume the same facts as in Example (1), except that the employer refuses to submit the request for exception and the employees of the union strike to force the employer to submit the exception request. Since the strike was not called to prevent a party at interest from exercising a right available to such party under the regulations, neither the union nor the em-

ployees have violated the provisions of this chapter.

Example (4). Assume the same facts as in Example (1), except the parties also agreed that the increase in excess of the standard would be paid into an escrow account pending approval or disapproval of the request for exception. The terms of the escrow agreement provide that to the extent the exception is granted escrowed monies will be paid to the employees and to the extent the exception is disallowed the portion disallowed will revert to Employer A. The escrow agreement would terminate at that time. Since the terms of the escrow agreement provide only for payment of amounts approved by the Pay Board and reversior of the disapproved amounts, the parties to the contract did not violate the provisions of this chapter.

Example (5). Assume the same facts as in Examples (1) and (4) except that the terms of the escrow agreement provide that disapproved amounts shall continue to be paid into the fund and shall be paid out to the employees upon the relaxation or cessation of economic controls. Since the terms of the escrow agreement provide for beneficial ownership by the employees of the escrowed amounts, such amounts constitute deferred compensation for services rendered in the control year such amounts are paid into escrow. Continued payment of such amounts by Employer A after a disallowance by the Pay Board results in a violation of the provisions of this chapter by all parties at interest to the agreement.

Example (6). On June 1, 1972, Employer B put into effect a 5 percent general increase in the average straight-time hourly rate for his 3,500 member appropriate employee unit not covered by a collective bargaining agreement. Employer B neglected to file a report of such increase within the appropriate 10-day period following implementation of the pay increase. Employer B is in violation of the provisions of this chapter which require that reports be filed on forms and pursuant to instructions prescribed by the Pay Board. Similarly, a violation would occur if the employees of B were covered by the terms of a collective bargaining agreement.

Example (7). On May 15, 1972, Employer C put into effect a 5.5 percent increase in the average straight-time hourly rate for a 100 member appropriate employee unit not covered by a collective bargaining agreement. On that date Employer C also communicated a promise to pay each employee a bonus of $500 upon the relaxation or cessation of economic controls. Employer C has not filed a request for exception with respect to the promise to pay each employee a $500 bonus. Since the promise to pay such bonus is an increase in wages and salaries in the form of deferred compensation, Employer C is in violation of the provisions of this chapter. Similarly, a violation would occur if the employees of Employer C were covered by the terms of a collective bargaining agreement and such agreement provided for the bonus.

Example (8). Employer D and Union Y engage in collective bargaining, but cannot agree because Union Y is requesting increases in excess of the general wage and salary standard. The employees represented by Union Y strike against Employer D over the issue of wages and salaries. A strike resulting from the failure to agree on an increase in wages and salaries is not a violation of the provisions of this chapter.

Example (9). Employer E and Union Z agree to an increase in wages and salaries that exceeds the general wage and salary standard. In order to force immediate payment of the total increase, Union Z strikes Employer E. After 3 days of the strike, Employer E puts the total increase into effect and the employees return to work. Both Union Z and the employees represented thereby are in violation because of the strike to force immediate payment of an increase not authorized by the provisions of this chapter. Employer E is in violation for paying the increase not so authorized.

Example (10). Pursuant to a 2-year collective bargaining agreement executed on June 1, 1971, an 11 percent increase is scheduled to be put into effect on June 1, 1972. On April 17, 1972, the employer filed a party at interest challenge to the deferred increase under the provisions of this chapter. After being informed of the challenge, the union struck the employer upon his refusal to withdraw the challenge. Since the employees and the union have struck the employer to force withdrawal of a document filed under the authority of the provisions of this chapter, both the union and the striking employees are in violation of such provisions.

§ 201.42 Criminal fine.

Any person who willfully violates any provision of this chapter or any order issued thereunder shall be subject to a fine of not more than $5,000 for each violation.

§ 201.43 Civil penalty.

Any person who violates any provision of this chapter or any order issued thereunder shall be subject to a civil penalty of not more than $2,500 for each violation.

§ 201.44 Injunctions and other relief.

Whenever it appears to the Pay Board that any individual or organization has engaged, is engaged, or is about to engage in any act or practice constituting a violation of the regulations in this chapter or any other order issued thereunder, the Board may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin that act or practice. The relief sought may include a mandatory injunction commanding any person to comply with any such order or regulation and restitution of moneys received in violation of any such order or regulation.

Subpart E—Computation Rules

§ 201.51 General.

(a) *Purpose.* The purpose of the provisions of this subpart is to set forth the methods of computation of pay adjustments which shall be used under the applicable provisions of this chapter with respect to the periods of time called "control years" for which such computations are made. The methods of computation described in this subpart shall be used, among other things, to examine the relationship of pay adjustments to the maximum permissible annual aggregate increase in the base compensation rate for an appropriate employee unit during any control year (§ 201.53). Every person who makes any computation pursuant to the provisions of this subpart shall be required to make such computation in good faith and in a manner consistent with the policies of the Act.

(b) *Scope.* The provisions of this subpart include the method of computing a base compensation rate (§ 201.54) consisting of an average straight-time hourly rate (§ 201.55) and an average hourly benefit rate (§ 201.56). Additional rules are provided to compute increases in such components of the base compensation rate. The objective of these computations is to determine a percentage relationship between the total of the increases (excluding those increases specified in § 201.57)in such components during a control year and the base compensation rate applicable for that control year. Except as provided in paragraph (d) of this section, all chargeable increases during any control year shall be deemed paid for the entirety of such control year.

(c) *Limitation on wage and salary increases.* Except as otherwise provided in this title, an appropriate employee unit's aggregate percentage increase in the base compensation rate (as determined pursuant to § 201.52) for any control year may not exceed its maximum permissible annual aggregate wage and salary increase (as defined in § 201.3). However, the wage and salary increases of an individual employee in an appropriate employee unit may exceed such maximum so long as the aggregate increase in the base compensation rate for such unit as a whole does not exceed such maximum.

(d) *Cost of living allowance calculation.* If a wage and salary increase in an employment contract or pay practice results from a cost of living adjustment pursuant to and justified by a generally accepted escalator formula, the cost of living increase shall be calculated by multiplying each cost of living adjustment by a fraction, the numerator of which shall be the number of months within the appropriate control year such cost of living adjustment is in effect, and the denominator of which shall be the number of months in such control year.

§ 201.52 Formula for computation of annual aggregate increase in the base compensation rate.

In any case in which a computation is required to determine the annual aggregate increase in the base compensation rate with respect to an appropriate employee unit for any control year (determined pursuant to § 201.53), such increase shall be stated as a percentage which is determined by dividing the sum of—

(a) The total adjustment during such control year in the average straight-time hourly rate (determined pursuant to paragraph (b) of § 201.55), plus

(b) The total adjustment during such control year in the average hourly benefit rate (determined pursuant to paragraph (b) of § 201.56), by such unit's base compensation rate (determined pursuant to § 201.54) applicable to such control year. (See § 201.57 for exclusions from adjustment computations.)

§ 201.53 Determination of control year.

(a) *In general.* This section provides rules to determine the time period for computing the annual aggregate wage and salary increase for an appropriate employee unit. These rules preserve, as nearly as possible, both contractual and established pay relationships. In some instances, provision has been made for

a first control year of less than 12 months. In this period of less than 12 months, the maximum permissible annual aggregate wage and salary increase for a full control year shall be allowed.

(b) *Pay practices*—(1) *First control year.* Except as provided in paragraph (c)(1)(ii) of this section, the first control year for an appropriate employee unit which was not covered by the terms of an employment contract in effect on November 13, 1971, shall be—

(i) The period from November 14, 1971 through November 13, 1972, or

(ii) If the unit was covered on November 13, 1971, by an established pay practice (not set by contract) whereby prospective wage and salary increases for the unit are determined for a period of 12 months or more beginning on a fixed date (other than November 14), at the election of the employer, the period of less than 12 months from November 14, 1971 through the day before the annual anniversary of such fixed date.

(2) *Succeeding control years.* Each succeeding control year shall be the 12-month period beginning on November 14, or, in the case of an established pay practice where the election described in subparagraph (1)(ii) of this paragraph is made, on an annual anniversary of the fixed date referred to in such subparagraph.

(c) *Employment contracts*—(1) *First control year*—(i) *General rule.* The first control year for an appropriate employee unit which was covered by the terms of an employment contract in effect on November 13, 1971 shall be the period of 12 months or less which begins on November 14, 1971 and ends—

(*a*) Where the expiration date of that contract is on or before November 13, 1972, on the expiration date of that contract;

(*b*) Where the expiration date of that contract is after November 13, 1972, on the annual anniversary of the expiration date of the prior succeeded contract, or, at the election of the parties, on the annual anniversary of the day prior to the first wage increase that was provided under the terms of the contract in effect on November 13, 1971; or

(*c*) Where the expiration date of that contract is after November 13, 1972, and there was no prior succeeded contract (e.g., the existing contract is the first contract between the parties), on the day prior to the annual anniversary of the effective date of the contract in effect on November 13, 1971, or, at the election of the parties, on the annual anniversary of the day prior to the first wage increase that was provided under the terms of the contract in effect on November 13, 1971.

(ii) *Special rule.* Where there was an established bargaining relationship between the parties on November 13, 1971, and there was no contract in effect on such date or the parties were operating under a contract which had been extended beyond its original expiration date, the first control year shall begin on November 14, 1971, and end on the annual anniversary of the expiration date of the prior succeeded contract or, at the election of the parties, the first control year shall begin on November 14, 1971, and end on the day before the effective date of the new contract provided that no wage and salary increases are paid to the appropriate employee unit prior to such effective date of the new contract.

(2) *Succeeding control years.* Each succeeding control year shall be the 12-month period ending on the annual anniversary of the date of the end of the first control year.

(3) *"Expiration date" defined.* The term "expiration date" as used in this section refers to such date specified in the contract originally negotiated by the parties and not to a later extension or modification of such date.

(d) *Limitations*—(1) The base date for the first and succeeding control years established under the provisions of paragraph (b) or (c) of this section shall not thereafter be changed even though the appropriate employee unit goes from a pay practice status to an employment contract status or from an employment contract status to a pay practice status after November 13, 1971. Notwithstanding the preceding sentence, in any case in which a newly organized unit is employed by an employer who, himself or through an association, is bound by a master employment contract which provides that newly organized units of the same employer shall be subject to all the terms and conditions of the master contract, the control year of such newly organized unit may, at the election of the parties, be changed to conform to the control year typical for units covered by the master agreement.

(2) There shall be no retroactive payments of an increase in wages or salaries prior to a base date established under the provisions of the preceding subparagraph or paragraph (b) or (c) of this section unless allowable under Pay Board regulations or orders.

(e) *Manner of election.* Any election described in this section shall be evidenced by filing such forms as may be prescribed by the Pay Board.

(f) *Tandem relationship.* An appropriate employee unit claiming a tandem relationship to another unit shall not conform its control year to the control year of such other unit solely on account of such tandem claim.

§ 201.54 Base compensation rate.

The base compensation rate applicable for any control year shall be an average rate of pay, stated in dollars and cents per hour, which is equal to the sum of the average straight-time hourly rate (determined pursuant to paragraph (a) of § 201.55) plus the average hourly benefit rate (determined pursuant to paragraph (a) of § 201.56).

§ 201.55 Average straight-time hourly rate.

(a) *General rule.* For purposes of § 201.54 the average straight-time hourly rate for an appropriate employee unit shall be the amount, stated in dollars and cents per hour, which is determined by dividing the total straight-time payroll expenditures for the base payroll period by the total man-hours paid for (including all paid leave hours) during such period. For purposes of this section, the term "total straight-time payroll expenditures" shall include payments for base payroll period wages and salaries made retroactively pursuant to § 201.31, 201.32 (b) or (c), 201.33, 201.36, or 201.40 or made retroactively pursuant to Pay Board decision under § 201.30 or 201.34 where such decision specifically allows the payment to be included in the base. Such term shall include payments for man-hours not worked at the straight time rates applicable had the hours been worked (e.g., sick, vacation, and holiday leave, reporting and call-in pay, etc.) in addition to payments for man-hours actually worked. Such term shall exclude payments attributable to shift differentials, premiums for overtime, weekend, vacation, and holiday pay (but shall include the straight-time pay for such work), severance pay, bonuses, supplemental unemployment benefits, and any other direct or indirect benefits. For purposes of this paragraph, the term shall include straight-time payments which are excludable under § 201.57. All man-hours paid for shall be taken into account at the straight-time hourly rate, including the man-hours paid for of those employees in the unit who are not paid on an hourly rate basis. For purposes of this section "man-hours paid for" shall be the actual man-hours for which employees in the unit receive compensation during the payroll period in question. For those employees who are not on fixed hourly schedules, a reasonable estimate shall be made as to the hours for which they receive compensation during the payroll period.

(b) *Adjustment in average straight-time hourly rate.* The total adjustment in the average straight-time hourly rate (referred to in paragraph (a) of § 201.52) for an appropriate employee unit is the amount of increase, if any, of such rate in effect during the last payroll period of the control year which follows the base date compared to such rate in effect during the base payroll period. (See § 201.57 for items excluded from adjustment computations and § 201.51(d) for the method of computation in the case of cost of living adjustments.) Such total adjustments shall be—

(1) In the case of an adjustment computation made at or after the end of the control year in question relating to a wage and salary practice or employment contract, which includes merit adjustments pursuant to a merit plan, practice, or contract provision which existed on November 13, 1971, an amount, stated in dollars and cents per man-hour, which is equal to the excess, if any, of—

(i) The amount determined by dividing the total straight-time payroll expenditures incurred for the last payroll period of the control year in question at the pay rates then in effect, by the actual man-hours paid for during such payroll period, over

(ii) The amount of such average straight-time hourly rate determined with respect to the base payroll period (see paragraph (a) of this section).

A compensating adjustment may be made to offset any increase in the wage and salary rate caused by changes in the composition of an appropriate employee unit with respect to average length of service or average skill levels.

(2) In the case of an adjustment computation relating to a wage and salary practice or employment contract, which does not include any merit adjustment pursuant to a plan, practice, or contract provision which existed on November 13, 1971, an amount, stated in dollars and cents per man-hour, which is equal to the excess, if any, of—

(i) The amount determined by dividing the projected total straight-time payroll expenditures which would be incurred for the last payroll period of the control year in question (computed by applying the pay rates which would be in effect during such last payroll period to the work force composition and years of service which existed during the base payroll period and by assuming, in the case of piece-rate or incentive systems, no change in output per worker) by the actual man-hours paid for during the base payroll period, over

(ii) The amount of such average straight-time hourly rate as determined with respect to the base payroll period (see paragraph (a) of this section).

(c) *Interim computations.* In order to insure compliance with the Pay Board's rules and regulations and to carry out the stabilization program's monitoring function, it may be necessary to compute the adjustment in an appropriate employee unit's average straight-time hourly rate with regard to a given payroll period during such unit's control year. These computations will be made as follows—

(1) In the case of an adjustment computation made prior to the end of a control year relating to a wage and salary practice or employment contract, which includes merit adjustments pursuant to a merit plan, practice, or contract provision which existed on November 13, 1971, a ratio will be established between—

(i) The amount, stated in dollars and cents per hour, which is equal to the excess, if any, of—

(*a*) The amount determined by dividing the total straight-time payroll expenditures incurred for the payroll period immediately preceding the interim computation at the pay rates then in effect, by the actual man-hours paid for during such payroll period, over

(*b*) The amount of such average straight-time hourly rate determined with respect to the base payroll period (see paragraph (a) of this section), and

(ii) The amount, stated in dollars and cents per hour, which is equal to the excess, if any, of—

(*a*) The amount determined by dividing the reasonable and supportable estimate of the total straight-time payroll expenditures expected to be incurred for the last payroll period of the control year by the reasonable and supportable estimate of the actual man-hours expected to be paid for during such last payroll period (such estimates shall be made in good faith and shall be subject to documentation), over

(*b*) The amount of such average straight-time hourly rate determined with respect to the base payroll period (see paragraph (a) of this section).

(2) In the case of an adjustment computation made prior to the end of a control year relating to a wage and salary practice or employment contract, which does not include any merit adjustment pursuant to a plan, practice, or contract provision which existed on November 13, 1971, an amount, stated in dollars and cents per man-hour, shall be computed which is equal to the excess, if any, of—

(i) The amount determined by dividing the total straight-time payroll expenditures incurred for the payroll period immediately preceding the interim computation (such expenditures are computed by applying the pay rates in effect during such payroll period to the work force composition and years of service which existed during the base payroll period and by assuming, in the case of piece-rate or incentive systems, no change in output per worker) by the actual man-hours paid for during the base payroll period, over

(ii) The amount of such average straight-time hourly rate as determined with respect to the base payroll period (see paragraph (a) of this section).

§ 201.56 Average hourly benefit rate.

(a) *General rule.* For purposes of § 201.54, the average hourly benefit rate of an appropriate employee unit shall be an amount, stated in dollars and cents per hour, which is determined by dividing the total cost of benefits which would have been incurred with respect to the base year, computed by costing each benefit item at the rate in effect on the last day of such base year, by the total number of man-hours actually worked by employees in such unit (excluding paid leave hours) during such base year. For purposes of this section, the term "total cost of benefits" shall include payments made retroactively pursuant to §§ 201.31, 201.32 (b) or (c), §§ 201.33, 201.36, or 201.40 or made retroactively pursuant to Pay Board decision under § 201.30 or § 201.34 where such decision specifically allows the payment to be included in the base, payments attributable to shift differentials, and premiums for overtime, weekend, vacation, and holiday work. The term shall also include other premium payments, and vacation, sick, holiday, and other paid leave (e.g., jury duty, funeral, voting, etc.) severance pay, bonuses, supplemental unemployment benefits, and other direct and indirect benefits (except incentive compensation as provided in Subpart F of this part). For purposes of this paragraph, the term shall include benefits which are excludable under § 201.57 (except for paragraph (d) of such section relating to certain employer contributions to Federal or State plans). For purposes of this section, "man-hours worked" shall be the aggregate man-hours actually worked by members of the unit during the base year. A reasonable estimate shall be made as to the hours actually worked during the base year for those employees who are not on fixed hourly schedules.

(b) *Adjustment in average hourly benefit rate.* The total adjustment in the average hourly benefit rate (referred to in paragraph (b) of §201.52) for an appropriate employee unit is the amount of increase, if any, with respect to such rate in effect at the end of the control year in question as compared to the rate in effect at the end of the base year. (See § 201.57 for items excluded from adjustment computations and § 201.51(d) for the method of computation in the case of cost of living adjustments. Further, amounts saved because of a decrease of benefit costs or because of elimination or reduction of benefit levels may be used to offset other increased benefit costs due to new or improved benefits.) Such total adjustment shall be an amount stated in dollars and cents per man-hour, which is equal to the excess, if any, of—

(1) The amount determined by dividing the total cost of benefits for the control year in question which would have been incurred assuming the same work force composition and years of service existed during the control year as that which existed during the base year, computed by costing each benefit item at the rate which would be in effect on the last day of such control year, including increased benefit costs resulting from increases in the average straight-time hourly rate during such control year, by the total number of man-hours worked by employees in the appropriate employee unit during the base year, over

(2) The amount of such average hourly benefit rate as determined with respect to the base year (see paragraph (a) of this section).

§ 201.57 Exclusions from adjustment computations.

For purposes of determining any adjustment pursuant to § 201.55 (b) or (c) (relating to adjustment in the average straight-time hourly rate) or § 201.56 (b) (relating to adjustment in the average hourly benefit rate), the following items or factors shall be excluded:

(a) *Promotion.* Increases due to promotion where the duties and responsibilities of an employee in the appropriate employee unit have materially changed from the duties and responsibilities of such employee in the job, job classification, or position previously held.

(b) *Longevity.* Longevity increases provided for in an employment contract in effect on November 13, 1971, or provided for in a pay practice previously set forth and in existence on such date, including the amount of increases provided for in such contract or pay practice to the extent that amount is provided for in a successor contract or pay practice. These longevity increases must be solely related to the employee's length of service and must operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work performance. The only

conditions which can attach to the increase are satisfactory work performance and length of service. If it is an established practice that once an individual's work performance for a certain length of time is determined to be satisfactory and the amount of the increase as determined in advance is not subject to any discretionary adjustment, the increase is due to longevity.

(c) *Automatic in-grade progression.* Progression increases in accordance with a step or series of steps for a given job classification (including increases pursuant to a progression schedule for newly hired employees which meets the requirements of this paragraph) provided for in an employment contract in effect on November 13, 1971, or provided for in a pay practice previously set forth and in existence on such date, including the amount of increases provided for in such contract or pay practice to the extent that amount is provided for in a successor contract or pay practice. These progression increases must be solely related to the employee's length of service in a particular job classification and must operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work performance. The only conditions which may attach to the increase are satisfactory work performance and length of service in a particular job classification. If it is an established practice that once an individual's work performance for a certain length of time in a particular job classification is determined to be satisfactory and the amount of the resulting increase as determined in advance is not subject to any discretionary adjustment, the increase is due to automatic in-grade progression.

(d) *Employer contributions to certain Federal or State plans.* Employer contributions for—

(1) Any Federal public plans whether the participation of the employer is optional or obligatory (e.g., social security, Railroad Retirement Act, Federal Insurance Contribution Act, Federal Unemployment Tax Act); or

(2) Any workmen's compensation or unemployment insurance plan pursuant to State law whether the participation of the employer is optional or obligatory.

(e) *Fair Labor Standards Act.* Any increases required to be paid pursuant to the Fair Labor Standards Act of 1938, 52 Stat. 1060, as amended, or as a result of an enforcement action under such Act.

(f) *Governmental wage determinations*—(1) *Federal agency wage determinations.* That portion of any increase in wages and salaries required to be paid as a result of wage determinations made by any agency in the executive branch of the Federal Government pursuant to law for work (i) performed under contract with, or to be performed with financial assistance from the United States or the District of Columbia, or any agency or instrumentality thereof, or (ii) performed by aliens who are immigrants or who have been temporarily admitted to the United States pursuant to the Immigration and Nationality Act, 66 Stat. 166, as amended, which, with respect to an appropriate employee unit, would (except for the application of this subparagraph) cause the total of wage and salary increases to exceed the maximum permissible annual aggregate wage and salary increase.

(2) *State and local prevailing wage laws.* That portion of any increase in wages and salaries required to be paid pursuant to the terms of (or under an order issued pursuant to the terms of) a prevailing wage law of a State or local government for work performed under contract with, or to be performed with financial assistance from a State or any agency, instrumentality, or subdivision of a State, which, with respect to an appropriate employee unit, would (except for the application of this subparagraph) cause the total of wage and salary increases to exceed the maximum permissible annual aggregate wage and salary increase.

(g) *Certain employer contributions to qualified benefit plans.* Employer contributions to qualified benefit plans which are excluded contributions pursuant to § 201.58.

(h) *Pay adjustments to those individuals earning less than $1.90 per hour.* Any increase or portion thereof paid to employees earning less than $1.90 per hour to the extent that such increase or portion thereof does not cause an employee's wage to exceed $1.90 per hour.

(i) *Certain professional sports contests.* Amounts paid, either directly or indirectly, to those employees of a professional sports organization who have not been exempted from the coverage of this title and who are customarily paid from the proceeds of post-season play-off contests or from the proceeds of all-star exhibitions.

(j) *Certain productivity incentive programs.* Increases attributable to the operation of certain productivity incentive programs described in § 201.59.

(k) *New and revised job classifications.* [Reserved.]

(l) *Apprenticeship, training and learning programs.* [Reserved.]

In the case of exclusions claimed pursuant to paragraphs (e) and (f) of this section the prenotification and reporting rules of Part 202 of this chapter shall apply. Thus, pay adjustments given involving these exclusions must be separately prenotified or reported, as appropriate, for the pay adjustment category of the unit involved.

§ 201.58 Qualified benefit plans.

(a) *General rule.* The excluded contributions referred to in § 201.57(g) are those employer contributions to qualified benefit plans, which are described in paragraph (c) of this section.

(b) *Qualified benefit plan defined.* The term "qualified benefit plan" means—

(1) A pension, profit sharing, or annuity and savings plan which meets the requirements of section 401(a), 403(b), or 404(a)(2) of the Code,

(2) A group insurance plan, or

(3) A disability and health plan.

(c) *Excluded contributions.* For purposes of this part, excluded contributions are increases in employer contributions (pursuant to qualified benefit plans) which are either—

(1) Necessary to maintain existing benefit levels under such plans (but not those required as the secondary effect of an increase in the average straight-time hourly rate), or

(2) Those other increased contributions which in the aggregate do not exceed the qualified benefits standard (as defined in paragraph (d) of this section) for an appropriate employee unit.

For purposes of subparagraph (2) of this paragraph, the term "other increased contributions" includes increases in the average hourly benefit rate (determined pursuant to § 201.56) which are: necessary to support new employer qualified benefit plans and benefit improvements in existing qualified plans (except to the extent that the cost of such new or improved benefits are offset by cost savings attributable to favorable plan experience or to changes in the plan or plans); required as the secondary effect of an increase in the average straight-time hourly rate (see §§ 201.55 and 201.56); a result of pension funding actuarial assumptions or changes in amortization of past service liability inconsistent with those permitted by the Internal Revenue Service; a result of discretionary payments to qualified deferred profit-sharing plans not based on formula; or a result of a reduction in employee contributions.

(d) *Qualified benefits standard.* For purposes of paragraph (c)(2) of this section, the term "qualified benefits standard" means, with respect to an appropriate employee unit, an amount equal to the greater of—

(1) The sum of—

(i) 0.7 percent of such unit's base compensation rate (determined pursuant to § 201.54) with respect to the base payroll period, plus

(ii) The catchup percentage multiplied by the base compensation rate for the first control year. For purposes of this subdivision the "catchup percentage" is a percentage equal to the excess (if any) of 1.5 percent over the sum of the percentage increases in base compensation resulting from new or improved qualified benefit plans, or from the secondary effect of increases in the average straight-time hourly rate on qualified benefits during the 3 years preceding such first control year (such sum of the percentage increases shall be calculated by using the base compensation rate in effect immediately prior to each of the qualified benefit adjustments during the prior 3-year period); or

(2) Five percent of such unit's base compensation rate (determined pursuant to § 201.54) for a base payroll period, but only to the extent that the employer's resulting total contributions to qualified benefit plans with respect to such unit do not exceed 10 percent of such base compensation rate.

For purposes of subparagraph (1) of this paragraph, the 0.7 percent referred to in subdivision (i) of such subparagraph may be used in future control years to the extent not utilized in a prior control year. For purposes of such subparagraph the 1.5 percent referred to in subdivision (ii) of such subparagraph may be credited only in the first control year of a new pay practice or new employment contract. To the extent the amount credited is not utilized in such first control year the excess may be utilized in the second control year, but not thereafter.

§ 201.59 Productivity incentive programs.

(a) *Existing productivity incentive programs.* A productivity incentive program (as defined in paragraph (d) of this section) in existence, or proposed for installation and communicated to employees prior to November 14, 1971, will be allowed to operate according to its terms. Thus, any increases attributable to the operation of such a program may be excluded from adjustment computations pursuant to § 201.57(j). This paragraph shall apply to productivity incentive programs on either a plantwide or less than plantwide basis. In the case of the substantial revision of such a program, the provisions of paragraph (b) or (c) of this section (whichever is applicable) shall apply.

(b) *New or revised productivity incentive programs on a plantwide basis.* Increases attributable to the operation of a new or substantially revised existing plantwide productivity incentive program (as defined in paragraph (d) of this section) may be excluded from adjustment computations pursuant to § 201.57(j) if—

(1) Within 30 days of the installation of such a program, or revision thereof, or within 30 days of June 22, 1972, whichever is later, the employer has filed with the Pay Board a certification of such installation or revision which shall include a full description of the program and (if applicable) its revision, and

(2) Increases under such program, or revisions thereof, actually reflect and are directly related to increases in productivity.

(c) *New or revised productivity incentive programs on less than a plantwide basis.* If, on less than a plantwide basis, the installation of a new productivity incentive program (as defined in paragraph (d) of this section) or the installation of changes to an existing productivity incentive program which would substantially revise the terms of such program, would cause the annual aggregate wage and salary increase of an appropriate employee unit to exceed the maximum permissible annual aggregate, increases attributable to the operation of such program may be excluded from adjustment computations pursuant to § 201.57 (j); provided that increases under such program, or revisions thereof, actually reflect and are directly related to increases in productivity. Prior to the installation of such a program or the implementation of revisions thereto, or within 30 days of June 22, 1972, whichever is later, the employer shall provide the Pay Board with a description of such program and shall certify to the Board that the program, or revisions thereto, will substantially meet criteria appropriate for such plans or practices. Among the factors which may be considered are that the plan or practice—

(1) Provides employees the expectation of a level of earnings above base rates which will vary in relationship to changes in productivity, but which will not result in increased unit labor costs for the employer;

(2) Is designed to provide earnings opportunities sufficient to motivate the participants;

(3) Contains standards of performance and provisions for revising such standards to reflect changes in equipment, methods, quality requirements, and other factors related to the basis for standards development;

(4) Contains guarantees of wages and earnings for such contingencies as downtime for reasons beyond the control of participants and for nonstandard work; and

(5) Defines the employees included and their relationship to increased productivity.

(d) *Productivity incentive program defined.* For the purposes of this part, the term "productivity incentive program" means a plan or practice which establishes a formal system whereby, in accordance with predetermined formulas, wage and salary payments to an employee or group of employees increase as the measured productivity of such employee or group increases: *Provided,* That where a single plan or practice is plantwide and includes all or substantially all of the employees in a plant or firm, payments may be based on the measured increase in productivity for such plant or firm as a whole.

(e) *Discontinuance.* If a productivity incentive program is discontinued and such action results in an increase in wages and salaries to the employees affected, the employer shall certify to the Pay Board within 30 days of discontinuance that such action was taken in good faith and not for the purpose of circumventing the intent of the economic stabilization program.

(f) *Variable compensation.* Notwithstanding the provisions of this section, any plan or practice providing for the payment or award of "incentive compensation" as defined in § 201.72(e) of this part shall be governed by Subpart F of this part. Plans, practices, or programs described in § 201.77 which do not meet the definition of productivity incentive programs (as defined in paragraph (d) of this section) are governed by Subpart F of this part.

Subpart F—Executive and Variable Compensation

§ 201.71 Scope.

(a) *Purpose.* The purpose of this subpart is to provide rules and standards to stabilize items of executive and variable compensation whether or not payable to an executive.

(b) *Conflict with other provisions.* To the extent that any provision of this chapter is inconsistent with the provisions of this subpart, the provisions of this subpart shall control. Thus, in the area of executive base salaries and job perquisites only those existing contracts meeting the requirements of § 201.72(f) and in the area of incentive compensation plans or practices, sales or commission plans or practices, or production incentive programs only those existing contracts meeting the requirements of § 201.72(f) and pay practices previously set forth meeting the requirements of § 201.72(g) shall be allowed to operate under the terms and conditions imposed under § 201.35.

(c) *Exception.* The provisions of this subpart shall not affect the provisions of a collective bargaining agreement.

§ 201.72 Definitions.

For purposes of this subpart, the term—

(a) "Wages and salaries" means the same as under § 201.3 except that items constituting incentive compensation shall not be treated as wages and salaries unless otherwise provided in this subpart.

(b) "Executive compensation" includes base salary, job perquisites, and incentive compensation.

(c) "Base salary" means cash remuneration paid to an employee by an employer on account of the performance of services.

(d) "Job perquisite" means any item paid or furnished to or on behalf of an employee by an employer on account of the performance of services including, but not limited to, such items as reimbursement or payment by an employer of country club membership fees, dues, or other similar items; reimbursement or payment by an employer of uninsured medical expenses which are not covered by the employer's usual insurance program with respect to such expenses; the personal use of an automobile furnished by an employer; and payment by an employer for or in-kind furnishing of housing; and other such similar items.

(e) "Incentive compensation" includes the following items: Incentive bonuses (whether payable in cash or other property); stock options; so-called phantom stock awards (including both dividend and share units); employer contributions to stock purchase plans; and employer contributions to profit-sharing and savings and thrift plans which fail to meet the requirements of section 401(a) of the Code. This term, however, does not include profit-sharing or savings and thrift plans which meet the requirements of section 401(a) of the Code.

(f) "Existing contract" means a contract with respect to employment in effect on November 13, 1971, all the elements of which have been reduced to a writing which has been signed by the employee and the employer prior to November 14, 1971.

(g) "Pay practice previously set forth" means with respect to an incentive compensation plan or practice, a sales or commission plan or practice, or a production incentive program, a plan, practice, or program in effect on November 13, 1971, which meets all of the following requirements—

(1) The plan or practice had been communicated to the affected employees;

(2) The aggregate amount of the payment or award cannot be increased or withheld in its entirety by the exercise of any discretion;

(3) The aggregate amount of the payment or award is determined by a definite method or clear formula; and

(4) The definite method or clear formula is applied only to a wage or salary amount on a percentage or other similar basis without reference to profits, earnings, or any factor or item other than the actual wage or salary amount.

(h) "Plan, practice, or program unit" means the employees covered by an incentive compensation plan or practice, a sales or commission plan or practice, or a production incentive program.

(i) "Plan, practice, or program year" means the 12-month period with respect to which an incentive compensation plan or practice, a sales or commission plan or practice, or a production incentive program operates.

(j) "Pay Board" means the Pay Board established pursuant to Executive Order No. 11640, 37 F.R. 1213 (1972), as amended.

§ 201.73 Executive salaries and job perquisites.

(a) *In general.* Executive base salaries paid to or on behalf of and job perquisites paid or furnished to or on behalf of the employees in an appropriate employee unit during any control year shall be subject to the standard established in § 201.10(a) (or, where applicable, any exception thereto contained in Subpart B of this part).

(b) *Deferred payments*—(1) *Items deferred from an earlier year.* An item of base salary paid to the employees in an appropriate employee unit during any control year which was earned by any such employees during an earlier control year (or if not during a control year, during the applicable 12-month period beginning on November 14 and ending on November 13) shall not be considered as an item of base salary for such employees for the control year during which such item is paid.

(2) *Items deferred to a later year.* An item of base salary paid to the employees in an appropriate employee unit during any control year shall include all such items which were earned by all such employees during such control year.

(3) *Definition.* For purposes of this paragraph an item is considered as being "earned" during the control year in which services are performed giving rise to the obligation to pay for the performance of such services whether or not such obligation is contingent upon the performance of future services or any other condition or restriction (including, but not limited to, an agreement not to compete).

(c) *Valuation of items constituting job perquisites.* The amount of any job perquisite shall be determined as follows:

(1) The employer's current expenditure where such expenditure constitutes the only cost of the item, otherwise;

(2) The reasonable cost of providing the item to be determined from all the facts and circumstances involved.

§ 201.74 Incentive compensation plans (other than stock options).

(a) *In general*—(1) *Established plans.* Subject to the provisions of this section, an employer having an established written plan with respect to items of incentive compensation (but not including any plan or part thereof with respect to stock options) in effect on November 13, 1971, which plan does not meet the definition of § 201.72 (f) or (g) and does not operate under § 201.35, may continue to administer such a plan providing the following conditions are met—

(i) A payment or award has actually been granted under the plan during any one of the last 3 plan years ending prior to November 14, 1971;

(ii) The aggregate maximum amount of incentive compensation payable under the plan is determined according to a definite method or clear formula;

(iii) Administration of the plan is clearly in accordance with all conditions and limitations expressed therein; and

(iv) Administration of the plan is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

(2) *New or revised plans.* An employer having an incentive compensation plan (but not including any plan or part thereof with respect to stock options) described in—

(i) Section 201.78(b) (with respect to modification or revision of existing plans) and approved by the Pay Board pursuant to § 201.78;

(ii) Section 201.78(c) (with respect to adoption of new plans) and approved by the Pay Board pursuant to § 201.78; or

(iii) Section 201.79 (a) or (b) (with respect to plans of new organizations) and reported to the Pay Board pursuant to § 201.79 shall administer such a plan subject to the provisions of paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

(b) *Computation of allowable amount*—(1) *Established plans.* The allowable amount of any item of incentive compensation granted to the employees in a plan unit during any plan year under a plan described in paragraph (a)(1) of this section or a plan described in paragraph (a)(2) of this section to which subparagraph (2) of this paragraph does not apply shall not exceed an amount determined as follows: the base year amount plus such base year amount multiplied by the standard established in § 201.10(a).

(2) *New or revised plans.* The allowable amount of any item of incentive compensation granted to the employees in a plan unit under a plan described in paragraph (a)(2) (ii) or (iii) of this section during the first consecutive 12-month period under which the plan operates shall not exceed the base year amount.

(3) *Definition.* For purposes of this paragraph, the term "base year amount" means—

(i) In the case of a plan described in paragraph (a)(1) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted to the employees in a plan unit in one of the last 3 plan years ending prior to November 14, 1971;

(ii) In case of plan described in paragraph (a)(2)(ii) of this section during the first consecutive 12-month period under which such a plan operates, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation established by the Pay Board;

(iii) In the case of a plan described in paragraph (a)(2)(iii) of this section during the first consecutive 12-month period under which such a plan operates, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted under the plan; and

(iv) In the case of a plan described in paragraph (a)(2) (ii) or (iii) of this section after the first consecutive 12-month period under which the plan operates, the amount (in dollars, or where applicable, in dividend or share units) granted and allowed to be granted with respect to such first consecutive 12-month period.

(c) *Rules with respect to computation of allowable amount*—(1) *Deferred payments*—(i) *Items deferred from an earlier year.* An item of incentive compensation paid to the employees in a plan unit during any plan year which was granted to any such employees during an earlier plan year shall not be considered as an item of incentive compensation for such employees for the plan year during which such item is paid.

(ii) *Items deferred to a later year.* An item of incentive compensation granted to the employees in a plan unit during any plan year which is deferred to a later plan year shall be considered as an item of incentive compensation for such employees for the plan year during which such item is granted.

(iii) *Definition.* For purposes of this section, an item is considered as being "granted" during the plan year in which services are performed giving rise to the obligation to pay for the performance of such services whether or not such obligation is contingent upon the performance of future services or any other condition or restriction.

(2) *Excesses.* If the amount of any item of incentive compensation granted pursuant to a plan described in paragraph (a) of this section to which paragraph (b)(2) of this section does not

apply is in excess of the allowable amount with respect to such item determined pursuant to the rules contained in paragraph (b) of this section, such excess shall be deemed to be wages and salaries with respect to the covered plan unit. Such excess shall be apportioned to the appropriate employee units of the employees participating in the plan unit. The amount of excess which shall be apportioned to an appropriate employee unit shall be determined at the time the amount in excess is paid (or if deferred, the time such amount would have been paid but for such deferral) as follows: the number of employees in an appropriate employee unit who are participating in such a plan unit multiplied by a fraction, the numerator of which is the amount of the excess and the denominator of which is the number of employees in the plan unit. The amount so apportioned to each appropriate employee unit with respect to any plan year shall be considered as wages and salaries during the control year such amount is paid (or if deferred, the control year such amount would have been paid but for such deferral). Such amount shall be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter at the time such amount is paid (or if deferred, the time such amount would have been paid but for such deferral). Such amount shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by such amount for the control year such amount is paid (or if deferred, the control year such amount would have been paid but for the deferral). For purposes of determining the amount of any excess with respect to phantom stock awards, each phantom dividend or share unit shall be deemed to be an actual share of stock not subject to any restriction.

(3) *Credits.* If the amount of any item of incentive compensation granted pursuant to a plan described in paragraph (a) of this section to which paragraph (b)(2) of this section does not apply is less than the allowable amount for any plan year with respect to such item determined pursuant to the rules contained in paragraph (b) of this section, the amount equal to the difference between such allowable amount and the amount granted but no more than the difference between the allowable amount and the base year amount may be used by the employer as a credit for wages and salaries for the covered plan unit with respect to the control year in which such amount which is less than such allowable amount would have been paid had such lesser amount not been paid. The amount which may be credited shall be apportioned to the appropriate employee units of the employees participating in the plan unit in the same manner described in subparagraph (2) of this paragraph providing for apportioning excesses at the time such amount which is less than such allowable amount would have been paid had such lesser amount not been paid. Such amount shall not constitute wages and salaries for the purpose of computing the amount of any increase in wages and salaries for the following control year and shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit.

(4) *Valuation of items of incentive compensation.* The amount of an award shall be determined as follows—

(i) For phantom stock awards: In dividend or share units;

(ii) For incentive bonuses awarded in stock: In dollars in an amount equal to the fair market value of such stock at the time of the award regardless of any conditions or restrictions, less the amount (if any) paid for such stock by the employee;

(iii) For incentive bonuses awarded in property other than stock: In dollars in an amount equal to the fair market value of such property at the time of the award, regardless of any conditions or restrictions, less the amount (if any) paid for such property by the employee;

(iv) For employer contributions in money such as contributions to incentive stock bonus plans (whether or not described in section 401(a) of the Code) and stock purchase plans or to profit-sharing or savings and thrift plans which fail to meet the requirements of section 401(a) of the Code: In dollars in an amount equal to the employer's contribution, regardless of any deferral in time of the employee's rights under such a plan or any other condition or restriction;

(v) For employer contributions in property other than money (including stock) to plans described in subdivision (iv) of this subparagraph: In dollars in an amount equal to the fair market value of such property (less the amount of any employee contributions, if any), regardless of any conditions or limitations, any deferral in time of the employee's rights under the plan, or any other condition or restriction.

(d) *Rule with respect to certain plans.* Any plan described in paragraph (a)(1) of this section which fails to meet the condition of having made the payment or award required under such paragraph shall be considered as a new plan subject to the provisions of § 201.78(c) and paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

§ 201.75 Incentive compensation practices (other than stock options).

(a) *In general*—(1) *Existing practices.* Subject to the provisions of this section, an employer having a practice (other than a plan described in § 201.74(a)) with respect to items of incentive compensation (but not including any plan, part thereof, or practice with respect to stock options) in effect on November 13, 1971, which practice does not meet the definitions of § 201.72 (f) or (g) and does not operate under § 201.35, may continue to administer such a practice providing the following conditions are met—

(i) A payment or award has actually been granted under the practice as a matter of custom or habit during two of the last 3 practice years ending prior to November 14, 1971 (or if the practice has been in existence less than 2 practice years ending prior to November 14, 1971, then during 1 practice year ending before such date);

(ii) Administration of the practice is clearly in accordance with demonstrated past custom or habit; and

(iii) Administration of the practice is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

(2) *New or revised practices.* An employer having an incentive compensation practice (but not including any plan, part thereof, or practice with respect to stock options) described in—

(i) Section 201.78(b) (with respect to modification or revision of existing practices) and approved by the Pay Board pursuant to § 201.78;

(ii) Section 201.78(c) (with respect to adoption of new practices) and approved by the Pay Board pursuant to § 201.78; or

(iii) Section 201.79 (a) or (b) (with respect to practices of new organizations) and reported to the Pay Board pursuant to § 201.79 shall administer such a practice subject to the provisions of paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

(b) *Computation of allowable amount*—(1) *Established practices.* The allowable amount of any item of incentive compensation granted to the employees in a practice unit during any practice year under a practice described in paragraph (a)(1) of this section or a practice described in paragraph (a)(2) of this section to which subparagraph (2) of this paragraph does not apply shall not exceed an amount determined as follows: the base year amount plus such base year amount multiplied by the standard established in § 201.10(a).

(2) *New or revised practices.* The allowable amount of any item of incentive compensation granted to the employees in a practice unit under a new or revised practice described in paragraph (a)(2)(ii) or (iii) of this section during the first consecutive 12-month period under which the practice operates shall not exceed the base year amount.

(3) *Definition.* For purposes of this paragraph the term "base year amount" means—

(i) In the case of a practice described in paragraph (a)(1) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted to the employees in a practice unit in one of the last 3 practice years ending prior to November 14, 1971;

(ii) In case of a practice described in paragraph (a)(2)(ii) of this section dur-

ing the first consecutive 12-month period under which such a practice operates, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation established by the Pay Board;

(iii) In the case of a practice described in paragraph (a)(2)(iii) of this section during the first consecutive 12-month period under which such a practice operates, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted under the practice; and

(iv) In the case of a practice described in paragraph (a)(2)(ii) or (iii) of this section after the first consecutive 12-month period under which the practice operates, the amount (in dollars, or where applicable, in dividend or share units) granted and allowed to be granted with respect to such first consecutive 12-month period.

(c) *Rules with respect to computation of allowable amount*—(1) *Deferred payments*—(i) *Items deferred from an earlier year.* An item of incentive compensation paid to the employees in a practice unit during any practice year which was granted to any such employees during an earlier practice year shall not be considered as an item of incentive compensation for such employees for the practice year during which such item is paid.

(ii) *Items deferred to a later year.* An item of incentive compensation granted to the employees in a practice unit during any practice year which is deferred to a later practice year shall be considered as an item of incentive compensation for such employees for the practice year during which such item is granted.

(iii) *Definition.* For purposes of this section an item is considered as being "granted" during the practice year in which services are performed giving rise to the obligation to pay for the performance of such services whether or not such obligation is contingent upon the performance of future services or any other condition or restriction.

(2) *Excesses.* If the amount of any item of incentive compensation granted pursuant to a practice described in paragraph (a) of this section to which paragraph (b)(2) of this section does not apply is in excess of the allowable amount with respect to such item determined pursuant to the rules contained in paragraph (b) of this section, such excess shall be deemed to be wages and salaries with respect to the covered practice unit. Such excess shall be apportioned to the appropriate employee units of the employees participating in the practice unit. The amount of excess which shall be apportioned to an appropriate employee unit shall be determined at the time the amount in excess is paid (or if deferred, the time such amount would have been paid but for such deferral) as follows: the number of employees in an appropriate employee unit who are participating in such a practice unit multiplied by a fraction, the numerator of which is the amount of the excess and the denominator of which is the number of employees in the practice unit. The amount so apportioned to each appropriate employee unit with respect to any practice year shall be considered as wages and salaries during the control year such amount is paid (or if deferred, the control year such amount would have been paid but for such deferral). Such amount shall be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter at the time such amount is paid (or if deferred, the time such amount would have been paid but for such deferral). Such amount shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by such amount for the control year such amount is paid (or if deferred, the control year such amount would have been paid but for the deferral). For purposes of determining the amount of any excess with respect to phantom stock awards, each phantom dividend or share unit shall be deemed to be an actual share of stock not subject to any restriction.

(3) *Credits.* If the amount of any item of incentive compensation granted pursuant to a practice described in paragraph (a) of this section to which paragraph (b)(2) of this section does not apply is less than the allowable amount for any practice year with respect to such item determined pursuant to the rules contained in paragraph (b) of this section, the amount equal to the difference between such allowable amount and the amount granted but no more than the difference between the allowable amount and the base year amount may be used by the employer as a credit for wages and salaries for the covered practice unit with respect to the control year in which such amount which is less than such allowable amount would have been paid had such lesser amount not been paid. The amount which may be so credited shall be apportioned to the appropriate employee units of the employees participating in the practice unit in the same manner described in subparagraph (2) of this paragraph providing for apportioning excesses at the time such amount which is less than such allowable amount would have been paid had such lesser amount not been paid. Such amount shall not constitute wages and salaries for the purpose of computing the amount of any increase in wages and salaries for the following control year and shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit.

(4) *Valuation of items of incentive compensation.* Items of incentive compensation shall be valued according to the provisions of § 201.74(c)(4).

(d) *Rule with respect to certain practices.* Any practice described in paragraph (a)(1) of this section which fails to meet the condition of having made the payment or award required under such paragraph shall be considered as a new practice subject to the provisions of § 201.78(c) and paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

§ 201.76 Stock options.

(a) *Certain existing stock options.* Stock options granted to the employees in a plan unit in writing before the close of business on December 16, 1971, under a stock option plan adopted by an employer prior to November 14, 1971, and in effect on November 13, 1971, may be exercised. The grant of such options shall not be includible in determining the allowable number of shares to be granted during an employer's fiscal year pursuant to paragraph (b)(1) or (c) of this section.

(b) *New stock options under existing plans*—(1) *Grant.* New stock options under a stock option plan adopted by an employer prior to November 14, 1971, and in effect on November 13, 1971, may be granted to the employees in a plan unit under such a stock option plan but only in writing provided that—

(i) The plan is approved by the employer's stockholders within 12 months of its adoption;

(ii) The plan stipulates a maximum number of shares to be made available for stock option grants;

(iii) The plan establishes the option price of shares at not less than 100 percent of the fair market value of such shares on the date of grant or thereafter; and

(iv) The plan is administered in accordance with the customary manner.

The allowable number of shares to be granted during an employer's fiscal year under a stock option plan described in this subparagraph shall not exceed the number of shares determined as follows: the number of shares (adjusted to reflect stock splits and stock dividends) granted under such a plan during the last 3 fiscal years of the employer ending prior to November 14, 1971, divided by 3.

(2) *Exercise.* A stock option described in subparagraph (1) of this paragraph may be exercised by the employees in a plan unit under such a stock option plan.

(3) *Excess.* Shares granted in excess of the allowable number of shares to be granted during an employer's fiscal year determined according to the rules contained in subparagraph (1) of this paragraph (or where applicable under paragraph (c) of this section) under a stock option plan described in subparagraph (1) of this paragraph and meeting the requirements of subdivisions (i) through (iv) of such subparagraph shall not be granted without the prior approval of the Pay Board. In addition, shares granted without such approval shall not be exercised without the prior approval of the Pay Board.

(c) *Rules with respect to certain existing plans.* For purposes of determining the allowable number of shares to be granted during an employer's fiscal year under paragraph (b)(1) of this section if any plan is—

(1) In effect on November 13, 1971, for at least 1 fiscal year of the employer ending prior to November 14, 1971, but less than 3 such fiscal years, the allowable number of shares to be granted during an employer's fiscal year under new stock options shall not exceed the number of shares (adjusted to reflect stock splits and stock dividends) granted during the existence of the plan divided by the number of such fiscal years;

(2) In effect on November 13, 1971, for less than a full fiscal year of the employer, the allowable number of shares to be granted during an employer's fiscal year under new stock options shall not exceed the greater of the number of shares (adjusted to reflect stock splits and stock dividends) actually granted prior to November 14, 1971, during such period of less than a full fiscal year, or 25 percent of the number of shares (adjusted to reflect stock splits and stock dividends) authorized for stock options during the life of the plan; or

(3) In effect on November 13, 1971, for 3 or more fiscal years of the employer ending prior to November 14, 1971, and no shares under new options were granted during the last 3 fiscal years, the allowable number of shares to be granted during an employer's fiscal year under new stock options shall not exceed 25 percent of the number of shares (adjusted to reflect stock splits and stock dividends) authorized for stock options but not granted during the life of the plan.

(d) *Stock options not otherwise described in this section*—(1) *Grant.* The grant under a stock option plan adopted prior to November 14, 1971, and in effect on November 13, 1971, of any stock option which is not (i) described in paragraph (a) of this section or (ii) granted under a plan described in paragraph (b)(1) of this section shall be deemed to be wages and salaries with respect to the employees in the covered plan or practice unit.

(2) *Exercise.* The exercise under a stock option plan adopted prior to November 14, 1971, and in effect on November 13, 1971, of any stock option which is not (i) described in paragraph (a) of this section or (ii) granted under a plan described in paragraph (b)(1) of this section shall be deemed to be wages and salaries with respect to the covered plan or practice unit.

(3) *Apportionment to appropriate employee units.* Wages and salaries described in subparagraph (1) or (2) of this paragraph shall be apportioned to the appropriate employee units of the employees participating in the covered plan or practice unit. The amount of such wages and salaries which shall be apportioned to each such appropriate employee unit shall be determined in the case of a grant described in subparagraph (1) of this paragraph at the time of such grant and in the case of an exercise described in subparagraph (2) of this paragraph at the time of such exercise as follows: the number of employees in an appropriate employee unit who are participating in such a plan or practice unit multiplied by a fraction, the numerator of which is the amount of such wages and salaries and the denominator of which is the number of employees in the plan or practice unit. The amount so apportioned to each appropriate employee unit shall be considered as wages and salaries during the control year the option is granted, in the case of the grant of an option, and during the control year the option is exercised, in the case of the exercise of an option. Such amount shall be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter at the time the option is granted, in the case of the grant of an option, and at the time the option is exercised, in the case of the exercise of an option. Such amount shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, but shall reduce the maximum permissible wages and salaries payable to an appropriate employee unit by the amount apportioned to such unit for the control year to which such wages and salaries are apportioned.

(e) *Valuation of stock options.* For purposes of paragraph (d) of this section the value of a stock option—

(1) When granted shall be an amount equal to the value of such option at the time of grant (without taking into account any conditions or restrictions imposed under the stock option or on the stock) determined as follows: the sum of the option premium plus the excess of the fair market value of the stock under option at the time of the grant over the price of the stock under the option, and

(2) When exercised shall be an amount equal to the value of such option at the time of exercise (without taking into account any conditions or restrictions imposed under the stock option or on the stock) determined as follows: the excess of the fair market value of the stock under option at the time of exercise over the sum of the option premium plus the fair market value of the stock under the option at the time of the grant.

For purposes of this paragraph the term "option premium" means the value of the stock option. Such value shall be an amount equal to 25 percent of the fair market value of the stock under option at the time of grant without taking into account any conditions or restrictions imposed under the stock option or on the stock.

§ 201.77 Sales or commission plans or practices and certain production incentive programs.

(a) *In general*—(1) *Established plans, practices, or programs.* A sales or commission plan or practice established and in effect on November 13, 1971, or a production incentive program established and in effect on such date may continue to operate in accordance with its provisions and subject to the provisions of this chapter. Generally, such plans, practices, or programs are those which directly reflect the performance of the employee participant in the form of sales or production output. Thus, for example, an incentive award related to profits is not a sales or commission plan or practice or a production incentive program within the meaning of this section.

(2) *New plans, practices, or programs.* An employer having a sales or commission plan or practice or a production incentive program described in § 201.78 (c) (with respect to new plans, practices, or programs) and approved by the Pay Board pursuant to § 201.78 or described in § 201.79 (a) or (b) (with respect to new organizations) and reported to the Pay Board pursuant to § 201.79 shall administer such a plan, practice, or program subject to the provisions of this chapter.

(b) *Change in method of calculating earnings.* Amounts paid under a plan, practice, or program described in paragraph (a) of this section shall not be considered as a chargeable increase with respect to the appropriate employee units of the employees participating in the plan, practice, or program unit unless there has been a change in the method of calculating the earnings under such a plan, practice, or program resulting in an increase in the aggregate amount of compensation with respect to such plan, practice, or program unit for the plan, practice, or program year such change occurs.

(c) *Chargeable increases.* The amount of any increase in compensation described in paragraph (b) of this section shall be deemed to be a chargeable increase with respect to the covered plan, practice, or program unit. Such chargeable increase shall be apportioned to the appropriate employee units of the employees participating in the plan, practice, or program unit. The amount of such chargeable increase which shall be apportioned to an appropriate employee unit shall be determined at the time the amount constituting the chargeable increase is paid as follows: the number of employees in an appropriate employee unit who are participating in such a plan, practice, or program unit multiplied by a fraction, the numerator of which is the amount of the chargeable increase and the denominator of which is the number of employees in the plan, practice, or program unit. The amount so apportioned to each appropriate employee unit with respect to any plan, practice, or program year shall be considered as a chargeable increase during the control year such amount is paid. Such amount shall be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter at the time such amount is paid. Such amount shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by such amount for the control year such amount

is paid. For purposes of this section an amount is considered as being "paid" at the time such amount is received, *Provided, however,* That an amount deferred from one plan, practice, or program year to a subsequent plan, practice, or program year is considered as being paid at the time such amount would have been paid but for such deferral. For purposes of this section, a plan, practice, or program without a specified plan, practice, or program year shall be considered as operating during the 12-month period beginning on November 14 and ending on November 13.

(d) *Certain productivity programs.* Notwithstanding the provisions of this section and §§ 201.78 and 201.79, any productivity incentive program described in § 201.59 shall be governed by the provisions of that section and shall be subject to the certification requirements set forth therein.

§ 201.78 New or revised plans, practices, or programs.

(a) *Replacement of existing plans, practices, or programs.* An employer may, without the approval of the Pay Board, adopt a new incentive compensation plan or practice, sales or commission plan or practice, or production incentive program replacing such a plan, practice, or program operating under the provisions of this subpart which has lapsed or terminated on account of the operation of time only when such new plan, practice, or program does not increase the aggregate amount of compensation that would have otherwise been granted (whether or not currently) a plan, practice, or program unit under the plan, practice, or program replaced. For purposes of this paragraph a stock option plan operating under § 201.76(b)(1) under which all of the authorized shares have been granted shall be considered as having lapsed or terminated on account of the operation of time.

(b) *Modification or revision of existing plans, practices, or programs.* An employer may, without the approval of the Pay Board, modify or revise an incentive compensation plan or practice, sales or commission or plan or practice, or production incentive program operating under the provisions of this subpart only when such modified or revised plan, practice, or program does not increase the aggregate amount of compensation that would have otherwise been granted (whether or not currently) a plan, practice, or program unit under the plan, practice, or program without taking such modification or revision into account. Any other modification or revision of such a plan, practice, or program shall be submitted to the Pay Board for prior approval.

(c) *Adoption of new plans, practices, or programs.* An employer may adopt a new incentive compensation plan or practice, sales or commission plan or practice, or production incentive program where one did not exist before November 14, 1971, only upon the prior approval of the Pay Board and under such terms and conditions as may be imposed by the Pay Board.

(d) *Rules with respect to plans, practices, or programs described in paragraph (a), (b), or (c) of this section.* A new plan, practice, or program adopted pursuant to paragraph (a) or (c) of this section or a plan, practice, or program modified or revised pursuant to paragraph (b) of this section shall comply with other relevant sections of this subpart applicable to plans, practices, or programs in effect on November 13, 1971.

§ 201.79 New organizations and changes in organizational form.

(a) *New organizations.* Any business, enterprise, partnership, corporation, association, or any other organization organized or established on or after November 14, 1971, which is not a successor to any such organization in existence before such date, may establish executive compensation plans or practices, sales or commission plans or practices, or production incentive programs provided that within 90 days after establishment of such business, enterprise, partnership, corporation, association, or other organization, all such plans, practices, or programs shall be filed in report form with the Pay Board. The report filed shall in detail describe such plans, practices, or programs including the amount of each item of compensation with respect to each appropriate employee unit (or, where appropriate, the employees in such unit). Also, where available, this description shall include compensation levels of appropriate employee units (or, where appropriate, the employees in such unit) in comparable jobs in nearby firms. The report filed shall also demonstrate that the establishment of the entity and such plans, practices, or programs was not for the purpose of circumventing the intent of the wage and salary stabilization program and are not unreasonably inconsistent with the intent and purpose of the wage and salary stabilization program or the policies of the Pay Board.

(b) *Changes in organization form.* If an employer is doing business in a particular organizational form and thereafter reorganizes and conducts its business in a different organizational form or merges with another business, enterprise, partnership, corporation, association, or any other organization and, before, after, or as part of and on account of such reorganization or merger, establishes new executive compensation plans or practices, sales or commission plans or practices, or production incentive programs which are successors to plans, practices, or programs in effect before such reorganization or merger and which operate under the provisions of this subpart, it shall, within 90 days after such reorganization or merger, file in report form all such plans, practices, or programs with the Pay Board. The report filed shall in detail describe such plans, practices, or programs including the amount of each item of compensation with respect to each appropriate employee unit (or, where appropriate, the employees in such unit). Also, when available, this description shall include compensation levels of appropriate employee units (or, where appropriate, the employees in such unit) in similar positions in the predecessor organization (or organizations) prior to the reorganization or merger. The report filed shall also demonstrate that the reorganization or merger and establishment of such plans, practices, or programs were not for the purpose of circumventing the intent of the wage and salary stabilization program and are not unreasonably inconsistent with the intent and purposes of the wage and stabilization program or policies of the Pay Board. For purposes of this paragraph a plan, practice, or program is considered as a "successor" to another plan, practice, or program where such plan, practice, or program does not increase the aggregate amount of compensation that would have otherwise been granted (whether or not currently) a plan, practice, or program unit taking the reorganization or merger into account. Plans, practices, or programs which are not successor plans, practices, or programs shall be considered as new plans, practices, or programs subject to the provisions of §201.78(c).

(c) *Carryover of attributes.* For purposes of this subpart, a change in organizational form described in paragraph (b) of this section shall not affect the applicable attributes of the employer, such as appropriate employee units, plan, practice, or program units, plan, practice, or program years, or control years. Such attributes shall be carried over by the employer undertaking such a change in form, unless otherwise clearly required by the organizational change.

Subpart G—Nonunion Construction

§ 201.81 Scope.

(a) *Purpose.* The purpose of this subpart is to provide rules and standards for the stabilization of wages and salaries payable to certain employees engaged in construction who are not covered by the terms of a collective bargaining agreement. Such employees are hereinafter referred to as nonunion construction employees.

(b) *Conflict with other provisions.* To the extent that any provision of this chapter is inconsistent with the provisions of this subpart, the provisions of this subpart shall control.

§ 201.82 Definitions.

For purposes of this subpart, the term—

(a) "Appropriate employee unit" means the same as under § 201.3, except that such unit shall be restricted to nonunion construction employees who work at a job site in a particular craft (or similar classification) and in a local labor market area where union construction employees in such craft have received an approved union increase.

(b) "Approved union increase" means the total amount of increases (determined pursuant to § 201.85) in the basic wage rate approved on or after March 29, 1971, by the Construction Industry

Stabilization Committee for members of a particular craft engaged in construction as union construction employees at job sites in a local labor market area. Such term does not include increases approved by such Committee with respect to employer contributions to qualified benefit plans within the meaning of § 201.58(b).

(c) "Basic wage rate" means the highest straight-time hourly rate plus benefits (excluding employer contributions to qualified benefit plans as defined in § 201.58(b)) approved for payment to union construction employees in a local labor market area by the Construction Industry Stabilization Committee. Such rate shall be expressed in dollars and cents.

(d) "Construction" means that work defined by section 11(a) of Executive Order No. 11588, 36 F.R. 6339 (1971).

(e) "Construction Industry Stabilization Committee" means the committee established pursuant to section 1 of Executive Order No. 11588, as amended.

(f) "Control year" means the 12-month period beginning on November 14, 1971, and ending on November 13, 1972.

(g) "Craft" means a classification of mechanic or laborer engaged in construction at a job site.

(h) "Local labor market area" means the geographical area in the United States within which labor is normally recruited for work at a construction job site. Such area may include, e.g., a city, county, town, or other civil subdivision of the State in which the work is to be performed.

(i) "Maximum permissible annual aggregate wage and salary increase" means the increase determined pursuant to § 201.85 or an increase approved by the Pay Board pursuant to § 201.84(d).

(j) "Prefreeze increase" means, with respect to an appropriate employee unit, the increase (expressed in dollars and cents) in the base compensation rate excluding employer contributions to qualified benefit plans (as defined in § 201.58(b)) for the period beginning on March 29, 1971, and ending on August 14, 1971.

(k) "Union construction employees" means members of a particular craft engaged in construction at a job site who are covered by the terms of a collective-bargaining agreement.

(l) "Wages and salaries" means the same as under § 201.3.

§ 201.83 Excluded nonunion construction employees.

(a) *Off-site employees.* If employees of an employer who employs nonunion construction employees are not engaged in construction at the job site (e.g., office personnel, officers of the employer corporation, salaried supervisors or superintendents, etc.) such employees are excluded from the coverage of §§ 201.84 through 201.86 and are therefore subject to the standard, criteria for exceptions, and other provisions of this part. See Subparts A, B, C, D, E, and F of this part. Thus, such employees may not be included in an appropriate employee unit subject to the provisions of §§ 201.84 through 201.86.

(b) *On-site employees.* If nonunion construction employees of a particular craft are engaged in construction at the job site, but union construction employees of the particular craft are not working in the same local labor market area, such nonunion construction employees are excluded from the coverage of §§ 201.84 through 201.86 and are therefore subject to the standard, criteria for exceptions, and other provisions of this part. See Subparts A, B, C, D, E, and F of this part. Thus, such employees may not be included in an appropriate employee unit subject to the provisions of §§ 201.84 through 201.86.

§ 201.84 Included nonunion construction employees.

(a) *General rule.* Nonunion construction employees in a particular craft working at a job site in a local labor market area may be granted a wage and salary increase (expressed in dollars and cents) that exceeds the standard, if union construction employees perform the same or substantially similar work at job sites in the same local labor market area. Notwithstanding the preceding sentence, except as provided in paragraph (d) of this section, no wage and salary increase for the control year may be granted to such nonunion construction employees in excess of the maximum permissible annual aggregate wage and salary increase determined pursuant to §201.85(c).

(b) *Special rule.* Except as provided in paragraph (d) of this section, if an employer of nonunion construction employees enters a local labor market area for the first time, and union construction employees in a particular craft are subject to a basic wage rate for such area, such nonunion construction employees, performing the same or substantially similar work at a construction site in such area, may not be paid by such employer at a rate which exceeds the basic wage rate with respect to such craft in such area.

(c) *Fringe benefits*—(1) *Included benefits.* A wage and salary increase granted pursuant to paragraph (a) of this section, or a basic wage rate paid pursuant to paragraph (b) of this section, shall include increases or amounts, as appropriate, attributable to the secondary effect of increases in the straight-time hourly rate as part of such wage and salary increase or basic wage rate.

(2) *Qualified benefits.* Any wage and salary increase in employer contributions to a qualified benefit plan (as defined in § 201.58(b)), which is granted to nonunion construction employees subject to the provisions of paragraph (a) or (b) of this section, shall be subject to the qualified benefits standard and other appropriate rules in this part.

(d) *Essential employees.* An exception may be granted to an employer of nonunion construction employees who is unable to recruit or retain employees of a particular craft essential to the efficient operation of such employer's business. Thus, nonunion construction employees otherwise subject to the provisions of this section may be granted a wage and salary increase in excess of the maximum permissible annual aggregate wage and salary increase or, if appropriate, may be paid at a rate in excess of the basic wage rate for the local labor market area, if the payment of such excess has received prior approval of the Pay Board. A request for such exception shall be submitted on forms prescribed by the Pay Board and shall provide, in sufficient detail, evidence to support the grant of such exception.

§ 201.85 Computational rules.

(a) *In general.* The purpose of this section is to prescribe the method for determining the maximum permissible annual aggregate wage and salary increase payable in the control year with respect to an appropriate employee unit of included nonunion construction employees (§ 201.84). This section also prescribes the method of determining the percentage relationship of such increase to the standard and the method of determining approved union increases. Any request for an exception pursuant to § 201.84(d) shall include the computations prescribed in this section.

(b) *Approved union increase.* The approved union increase shall be determined by computing an amount (expressed in dollars and cents per hour) equal to the excess, if any, of—

(1) The approved basic wage rate being paid to union construction employees working in a particular craft in a local labor market area on the date proposed for payment of increases to included nonunion construction employees (§ 201.84), over

(2) The highest straight time hourly rate plus benefits (excluding employer contributions to qualified benefit plans as defined in § 201.58(b)) for such union construction employees in effect on March 28, 1971.

(c) *Maximum permissible annual aggregate wage and salary increase.* The maximum permissible annual aggregate wage and salary increase shall be determined by computing an amount (expressed in dollars and cents per hour) equal to the excess if any, of—

(1) The approved union increase determined as of the date proposed for payment of increases to included nonunion construction employees (§ 201.84), over

(2) The prefreeze increase paid to such nonunion construction employees.

(d) *Percentage relationship to standard.* For purposes of § 201.86, a percentage shall be determined by dividing the maximum permissible annual aggregate wage and salary increase with respect to the appropriate employee unit for the control year, by the base compensation rate excluding employer contributions to qualified benefit plans as defined in § 201.58(b) in effect for such unit on the base date (November 13, 1971).

§ 201.86 Reporting requirements.

(a) In addition to the requirements of Part 202 of this chapter, wage and salary increases granted pursuant to § 201.84(a)

shall be reported to the Pay Board by the employer on forms prescribed by the Board within 14 days after such increases have been put into effect, if such increases are in excess of the standard (§ 201.85(d)).

(b) An employer of included nonunion construction employees, who first enters a local labor market area and pays a basic rate pursuant to § 201.84(b), shall submit a report to the Pay Board, on forms prescribed by the Board, within 14 days after such payment.

(c) Wage and salary increases excluded from the coverage of this subpart by § 201.84(c)(2) shall be subject to the applicable provisions of Part 202 of this chapter.

Subpart H—State and Local Governments [Reserved]

APPENDIX A

POLICIES GOVERNING PAY ADJUSTMENTS ADOPTED BY THE PAY BOARD NOVEMBER 8, 1971

1. Millions of workers in the Nation are looking to the Pay Board for guidance with respect to permissible changes in wages, salaries, various benefits, and all other forms of employee total compensation. It is imperative to have a simple standard with as broad a coverage as possible at as early a date as possible. There is probably a need for exceptions and for individual consideration of special situations as soon as practical, and guidance to the millions whose pay relations are relatively simple is an early essential.

2. This general pay standard is intended, in conjunction with other needed measures, to meet the objectives which led to the establishment of this Board.

3. The general pay standard should be applicable to:

(a) Changes that need approval before becoming effective;

(b) Changes that must be reported when they become effective; and

(c) All other changes requiring compliance but not requiring specific approval or reporting.

4. (a) Effective November 14, 1971, the general pay standard shall be applicable to new labor agreements and, where no labor agreement is in effect, to existing pay practices. The general pay standard would provide:

On and after November 14, 1971, permissible annual aggregate increases would be those normally considered supportable by productivity improvement and cost of living trends. Initially, the general pay standard is established as 5.5 percent. The appropriateness of this figure will be reviewed periodically by the Board, taking into account such factors as the long-term productivity trend of 3 percent, cost of living trends, and the objective of reducing inflation.

In reviewing new contracts and pay practices, the Pay Board shall consider on-going collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(b) Existing contracts and pay practices previously set forth will be allowed to operate according to their terms except that specific contracts or pay practices are subject to review, when challenged by a party at interest or by 5 or more members of the Board, to determine whether any increase is unreasonably inconsistent with the criteria established by this Board. In reviewing existing contracts and pay practices, the Pay Board shall consider on-going collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(c) Scheduled increases in payment for services rendered during the "freeze" of August 16 through November 13, 1971, may be made only if approved by the Board in specific cases. The Board may approve such payments in cases which are shown to meet any of the following criteria:

(i) Prices were raised in anticipation of wage increases scheduled to occur during the "freeze."

(ii) A wage agreement made after August 15, 1971, succeeded an agreement that had expired prior to August 16, 1971, and retroactivity was an established practice or had been agreed to by the parties.

(iii) Such other criteria as the Board may hereafter establish to remedy severe inequities.

5. Following approval of special procedures by the Pay Board with respect to hearing "prior approval" cases and other special situations, application may be made for an exception to the general pay standard and for a hearing on such matters as inequities and substandard conditions.

6. No retroactive downward adjustment of rates now being paid will be required by operation of the general pay standard unless the rates were raised in violation of the freeze or of the general pay standard.

7. Provisions may be considered for vacation plans, in-plant adjustments of wages and salaries, in-grade and length-of-service increases, payments under compensation plans, transfers, and the like.

APPENDIX B—CROSS-REFERENCE TABLE

This table has been prepared for the purpose of providing the public with a convenient means of identifying sections of the regulations presently in effect and the regulations proposed to be prescribed in this notice of proposed rule making.

Old section number	*New section number*
201.1	201.1
201.2	201.2
201.3	201.3
201.10	201.10
201.11(a)(1)	201.12
201.11(a)(2)	201.13
201.11(a)(3)	201.14
201.11(a)(4)	201.51(d)
201.11(a)(5)	201.15
201.11(a)(6)	201.16
201.11(a)(7)	201.17
201.11(a)(8)	201.18
201.11(b)	201.11(b)
201.11(c)	201.29
201.11(d)	201.30
201.12	201.1
201.13(b)	201.31
201.13(c)	201.31(e)(3)
201.13(d)	201.36(d)
201.13(e)	201.32(b)
201.13(f)	201.32(c)
201.13(g)	201.33
201.13(h)	201.40
201.14	201.35
201.15	201.36
201.16	201.1
201.17	201.41
201.18	201.34
201.51 thru 201.79	201.51 thru 201.79
201.81 thru 201.86	201.81 thru 201.86

PART 202—PRENOTIFICATION AND REPORTING

Subpart A—Introduction

Sec.
202.1 Purpose.
202.2 Classification and reclassification.
202.3 Definitions.

Subpart B—Category I Pay Adjustments

Sec.
202.10 Prenotification and reporting requirements.

Subpart C—Category II Pay Adjustments

202.20 Prenotification and reporting requirements.

Subpart D—Category III Pay Adjustments

202.30 Prenotification and reporting requirements.

AUTHORITY: The provisions of this Part 202 issued under Economic Stabilization Act of 1970, as amended; Public Law 92-210, 85 Stat. 743; Executive Order No. 11640, 37 F.R. 1213 (1972), as amended by Executive Order No. 11660, 37 F.R. 6175 (1972); and Cost of Living Council Order No. 3, 36 F.R. 20202 (1972), as amended.

Subpart A—Introduction

§ 202.1 Purpose.

The purpose of the regulations in this part is to establish rules for prenotification and reporting with respect to wage and salary payments made (or proposed to be made) to employees on or after November 14, 1971. These rules are designed to provide an orderly system for compliance with the objectives of the Pay Board and the Cost of Living Council in stabilizing wages and salaries. All persons are required by law to comply with the provisions of the Economic Stabilization Act of 1970, as amended, and all Executive orders, regulations (including this regulation), circulars, and orders issued thereunder, and all persons are expected to comply voluntarily with such law, orders, and regulations. The interpretation of the regulations in this part is to be made in good faith and in a manner consistent with the policy of the Economic Stabilization Act of 1970, as amended.

§ 202.2 Classification and reclassification.

(a) For purposes of the regulations in this chapter—

(1) *Category I.* A Category I pay adjustment means a pay adjustment which—

(i) applies to or affects an appropriate employee unit containing 5,000 or more employees; or

(ii) applies to or affects any number of employees who are engaged in construction and is pursuant to a collective-bargaining agreement.

(2) *Category II.* A Category II pay adjustment means a pay adjustment which applies to or affects an appropriate employee unit containing more than 999 and fewer than 5,000 employees and which is not defined as a Category I pay adjustment within the meaning of subparagraph (1)(ii) of this paragraph.

(3) *Category III.* A Category III pay adjustment means a pay adjustment which applies to or affects an appropriate employee unit containing fewer than 1,000 employees and which is not defined as a Category I pay adjustment within the meaning of subparagraph (1)(ii) of this paragraph.

(b) *Reclassification of pay adjustments.* For provisions with respect to

reclassification of pay adjustments, see § 101.29 of this title.

§ 202.3 Definitions.

For purposes of this part, the term—

"Appropriate employee unit" or "unit" means a group of employees as defined in § 201.3, or, if appropriate, § 201.82(a) of this chapter.

"Construction" means that work defined by section 11(a) of Executive Order No. 11588, 36 F.R. 6339 (1971).

"Control year" means, with respect to an appropriate employee unit, the period of time determined pursuant to § 201.53, or, if appropriate, § 201.82(f) of this chapter.

"Fiscal year" means an employer's customary fiscal accounting period.

"General wage and salary standard" means the standard defined in § 201.10 (a) of this chapter.

"Pay adjustment" means a change in wages and salaries as defined in § 201.3 of this chapter.

"Pay Board" or "Board" means the Pay Board established pursuant to Executive Order No. 11640, 37 F.R. 1213 (1972), as amended.

"Prenotification" means notice submitted to the Pay Board, relating to a proposed pay adjustment, on forms and pursuant to instructions prescribed by the Board.

"Report" means notice submitted to the Pay Board or its delegate, relating to a pay adjustment put into effect, on forms and pursuant to instructions prescribed by the Board.

Subpart B—Category I Pay Adjustments

§ 202.10 Prenotification and reporting requirements.

(a) *General rule.* Except as provided in paragraph (b) of this section, a Category I pay adjustment shall not be put into effect unless prenotification of such proposed pay adjustment has been submitted to the Pay Board and the Pay Board has approved such proposed pay adjustment. Generally, prenotification shall be submitted not less than 60 days prior to the effective date of such proposed pay adjustment, or as soon thereafter as the amount and timing of such proposed pay adjustment have been determined.

(b) *Special rules*—(1) *State and local governments.* Prenotification of a Category I pay adjustment which applies to or effects the employees of a State or local government and which does not exceed the general wage and salary standard need not be submitted to the Pay Board. A report of such a pay adjustment shall be made to the Pay Board within 10 days after the pay adjustment is put into effect, unless the employer has certified to the Pay Board at the beginning of the fiscal year in which the pay adjustment is effective, and each 6 months thereafter, that all pay adjustments made by the employer are not in excess of the general wage and salary standard for the appropriate control year.

(2) *Existing contracts and pay practices previously set forth.* Category I pay adjustments made pursuant to the terms of employment contracts and pay practices previously set forth which existed prior to November 14, 1971, are subject to the provisions of § 201.35 of this chapter. Prenotification shall be submitted to the Pay Board not less than 90 days prior to the scheduled effective date of any such Category I pay adjustment which would cause the total of wage and salary increases for the appropriate control year to exceed 7 percent. Prenotification shall be submitted to the Pay Board not less than 60 days prior to the scheduled effective date of all other Category I pay adjustments which are subject to the provisions of § 201.35. Except as provided in § 201.35, such Category I pay adjustments may be put into effect without prior approval of the Pay Board.

(3) *Retroactivity.* A Category I pay adjustment which is within the provisions of § 201.31, 201.32, 201.33, 201.34, or 201.36 of this chapter is subject to the prenotification and reporting requirements of the applicable section and may be implemented only in accordance with the procedures prescribed therein.

(4) *Construction contracts.* A Category I pay adjustment which applies to or affects employees who are engaged in construction and which is determined pursuant to a collective bargaining agreement shall not be put into effect unless prenotification of such proposed pay adjustment has been submitted to the Construction Industry Stabilization Committee and the Construction Industry Stabilization Committee has approved such proposed pay adjustment.

(5) *Executive and variable compensation.* A Category I pay adjustment which is within the provisions of Subpart F of Part 201 of this chapter is subject to the prenotification and reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein. An application for an exception to the provisions of such subpart shall be submitted to the Pay Board in accordance with the procedures set forth in Part 205 of this chapter.

(6) *Individual increases.* Prenotification of proposed Category I pay adjustments affecting individual employees within an appropriate employee unit during a control year (e.g., through operation of a merit plan, whether or not "qualified" under § 201.15 of this chapter, which provides for individual increases on a random or variable timing basis) shall be submitted to the Pay Board—

(i) With respect to such pay adjustments during the first half of such control year, not less than 60 days prior to the beginning of such control year, or as soon thereafter as the amount and timing of such proposed pay adjustments have been determined, and

(ii) With respect to such pay adjustments during the second half of such control year, not less than 60 days prior to the midpoint of such control year, or as soon thereafter as the amount and timing of such proposed pay adjustments have been determined.

(c) *Monitoring and spot checks.* Category I pay adjustments shall be subject to monitoring and spot checks after being put into effect.

Subpart C—Category II Pay Adjustments

§ 202.20 Prenotification and reporting requirements.

(a) *General rule.* Except as provided in paragraph (b) of this section, a Category II pay adjustment which does not exceed the general wage and salary standard, or which is subject to the provisions of § 201.35 of this chapter (i.e., pursuant to the terms of an employment contract or pay practice previously set forth which existed prior to November 14, 1971), or which is within the provisions of § 201.14 or 201.15 of this chapter may be put into effect without prior approval of the Pay Board. Except as provided in paragraph (b) of this section, a report of such a Category II pay adjustment shall be made to the Pay Board within 10 days after the pay adjustment is put into effect.

(b) *Special rules*—(1) *State and local governments.* A Category II pay adjustment which applies to or affects the employees of a State or local government and which does not exceed the general wage and salary standard need not be reported to the Pay Board, provided that the employer has certified to the Pay Board, at the beginning of the fiscal year in which the pay adjustment is effective, and each 6 months thereafter, that all pay adjustments made by the employer are not in excess of the general wage and salary standard for the appropriate control year.

(2) *Existing contracts and pay practices previously set forth.* Category II pay adjustments made pursuant to the terms of employment contracts and pay practices previously set forth which existed prior to November 14, 1971, are subject to the provisions of § 201.35 of this chapter. Prenotification shall be submitted to the Pay Board not less than 90 days prior to the scheduled effective date of any such pay adjustment which would cause the total of wage and salary increases for the appropriate control year to exceed 7 percent. A report shall be made to the Pay Board within 10 days after any other Category II pay adjustment subject to the provisions of § 201.35 is put into effect. Except as provided in § 201.35 of this chapter all such pay adjustments may be put into effect without prior approval of the Pay Board.

(3) *Retroactivity.* A Category II pay adjustment which is within the provisions of § 201.31, 201.32, 201.33, 201.34, of 201.36 of this chapter is subject to the prenotification and reporting requirements of the applicable section and may be implemented only in accordance with the procedures prescribed therein.

(4) *Nonunion construction.* Certain Category II pay adjustments which ap-

ply to or affect employees engaged in construction and which are not determined pursuant to collective bargaining agreements are subject to the provisions of Subpart G of Part 201 of this chapter. Such pay adjustments are subject to the reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein.

(5) *Executive and variable compensation.* A Category II pay adjustment which is within the provisions of Subpart F of Part 201 of this chapter is subject to the prenotification and reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein. An application for an exception to the provisions of such subpart shall be submitted to the Pay Board in accordance with the procedures set forth in Part 205 of this chapter.

(6) *Individual increases.* Category II pay adjustments which do not require prior approval and which affect individual employees within an appropriate employee unit during a control year (e.g., through operation of a merit plan, whether or not "qualified" under §201.15 of this chapter, which provides for individual increases on a random or variable timing basis) shall be reported to the Pay Board as follows—

(i) A report of all pay adjustments anticipated, budgeted, or otherwise planned for in the unit during the control year shall be submitted to the Pay Board within 10 days after the first pay adjustment in the unit during the control year has been put into effect. If such pay adjustments are made pursuant to a qualified merit plan for which an exception is claimed pursuant to §201.15 of this chapter, such report shall include a certification that such qualified merit plan satisfies the requirements of such section.

(ii) A report of all pay adjustments previously put into effect in the unit during the control year, as well as pay adjustments anticipated, budgeted, or otherwise planned for in the unit during the remainder of the control year, shall be submitted to the Pay Board within 10 days after the midpoint of such control year.

(iii) A report of all pay adjustments put into effect in the unit during the control year shall be submitted to the Pay Board within 10 days after the close of such control year.

(7) *Catchup.* A report of a Category II pay adjustment with respect to which a catchup exception is claimed under the provisions of § 201.14 of this chapter shall include a certification that the conditions of such section are satisfied.

(c) *Prior approval.* A Category II pay adjustment which exceeds the general wage and salary standard, is not within the provisions of § 201.14, 201.15, or 201.35 of this chapter, and is not otherwise permissible under the provisions of this chapter, shall not be put into effect without prior approval of the Pay Board. An application for approval of such a proposed Category II pay adjustment shall be submitted to the Pay Board in accordance with the procedures set forth in Part 205 of this chapter.

(d) *Monitoring and spot checks.* Category II pay adjustments shall be subject to monitoring and spot checks after being put into effect.

Subpart D—Category III Pay Adjustments

§ 202.30 Prenotification and reporting requirements.

(a) *General rule.* Except as provided in paragraph (b) of this section, a Category III pay adjustment which does not exceed the general wage and salary standard, or which is subject to the provisions of § 201.35 of this chapter (i.e., pursuant to the terms of an employment contract or pay practice previously set forth which existed prior to November 14, 1971), or which is within the provisions of § 201.14 or 201.15 of this chapter may be put into effect without prior approval of the Pay Board. Except as provided in paragraph (b) of this section, such a Category III pay adjustment is not required to be prenotified or reported to the Pay Board.

(b) *Special rules*—(1) *Catchup.* A report of a Category III pay adjustment with respect to which a catchup exception is claimed under the provisions of § 201.14 of this chapter shall be made to the appropriate district director of Internal Revenue within 20 days after the pay adjustment is put into effect. Such report shall include a certification that the conditions of such section are satisfied.

(2) *Retroactivity.* A Category III pay adjustment which is within the provisions of § 201.31, 201.32, 201.33, 201.34 or 201.36 of this chapter is subject to the prenotification and reporting requirements of the applicable section and may be implemented only in accordance with the procedures prescribed therein.

(3) *Nonunion construction.* Certain Category III pay adjustments which apply to or affect employees engaged in construction and which are not determined pursuant to collective bargaining agreements are subject to the provisions of Subpart G of Part 201 of this chapter. Such pay adjustments are subject to the reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein.

(4) *Executive and variable compensation.* A Category III pay adjustment which is within the provisions of Subpart F of Part 201 of this chapter is subject to the prenotification and reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein. An application for an exception to the provisions of such subpart shall be submitted to the Pay Board in accordance with the procedures set forth in Part 205 of this chapter.

(5) *Qualified merit plans.* A report of a Category III pay adjustment under a qualified merit plan with respect to which an exception is claimed pursuant to §201.15 of this chapter shall be made to the appropriate district director of Internal Revenue within 20 days after the first increase under such a plan is paid to an employee during a control year. Such report shall include a certification that such qualified merit plan satisfies the requirements of such section.

(c) *Prior approval.* A Category III pay adjustment which exceeds the general wage and salary standard, is not within the provisions of §201.14, 201.15, or 201.35 of this chapter, and is not otherwise permissible under the provisions of this chapter, shall not be put into effect without prior approval of the Pay Board or its delegate. An application for approval of such a proposed Category III pay adjustment shall be submitted to the appropriate district director of Internal Revenue in accordance with the procedures set forth in Chapter IV of this title.

(d) *Monitoring and spot checks.* Category III pay adjustments shall be subject to monitoring and spot checks after being put into effect.

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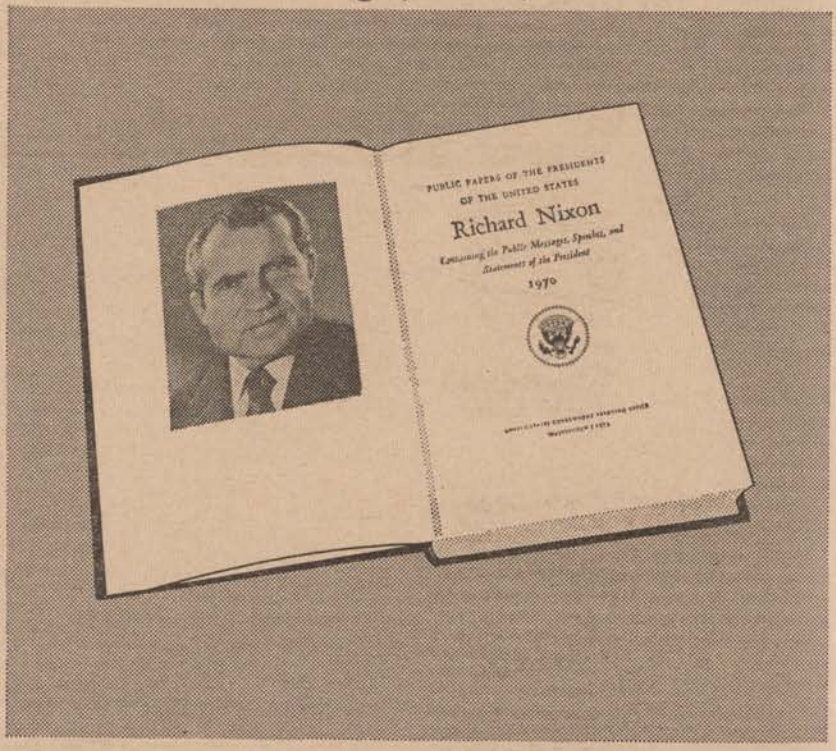

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