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HIGHLIGHTS OF THIS ISSUE

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FEDERAL REGISTER

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List of CFR Parts Affected

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

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3114 is amended to show that one position of Shipboard Training Assistant at the U.S. Merchant Marine Academy, Maritime Administration, is excepted under Schedule A.

Effective on publication in the FEDERAL REGISTER (7-25-72), § 213.3114(h)(11) is amended as set out below.

§ 213.3114 Department of Commerce.

* * * * *

(h) *Maritime Administration.* * * *

(11) U.S. Merchant Marine Academy, positions of: The Superintendent; the Executive Officer and Assistant Superintendent; Dean; Registrar and Educational Services Officer; Educational Specialist (Administration) (Assistant Dean); Alumni Records Officer and Placement Director; Librarian; the Special Assistant to the Superintendent; three Academy Training Representatives; and one Shipboard Training Assistant.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–48 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-11458 Filed 7-24-72;8:51 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that the position of Deputy Assistant Secretary for Legislation (Congressional Liaison) is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (7-25-72), § 213.3316(f)(12) is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-11459 Filed 7-24-72;8:51 am]

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTION, AND CLASSIFICATION OF ECONOMIC UNITS

Miscellaneous Amendments

Subparts A, D, and E of Part 101 of Chapter 1 of Title 6 of the Code of Federal Regulations are amended. There are two definitional changes in § 101.2 of Subpart A. The Council has decided that for purposes of determination of "firm," the definition of "annual sales or revenues" should not include gross receipts of or from a foreign branch or division of a "firm," or the gross receipts of or from a wholly or partially owned foreign entity if the gross receipts of such foreign entity, branch, or division are derived primarily from transactions with other foreign firms. A foreign entity is one located outside the several States and the District of Columbia. The decision was based on the fact that, like the revenues of wholly owned foreign subsidiaries, which were previously excluded, the gross receipts of or from partially owned foreign entities are related to the economies of other countries and do not have a direct impact on the U.S. domestic economy. The last sentence of the definition is added to make it clear that revenues of domestic firms from exports and from sales to firms in the Commonwealth of Puerto Rico continue to be included for purposes of determining the applicable price category.

A definition of "professional athlete" is added to this chapter of the regulations, for purposes of guidance and clarification.

Subpart D is amended to add a paragraph (c) to § 101.35 to reflect a Council for decision to exempt salaries for professional athletes. The Council considered that professional athletes often have short working and earning lives and that some are normally restricted by contracts containing "reserve clauses" from changing jobs to obtain higher salaries. The Council considered further wage control in this sector could pose severe administrative problems. For example, under Pay Board regulations the appropriate employee unit could be the individual player, the relevant club, or the league. In addition, in some sports, teams are located in foreign countries and controls on U.S. players could result in confusing wage negotiations and inequitable results as between domestic and foreign players.

The Council also decided to exempt the salaries of team managers and coaches because their salaries are closely associated with overall player salaries. However, the exemption does not affect the salaries of personnel employed by professional sports organizations whose salaries are not closely associated with the players' salaries, such as trainers, ticket cashiers, and front office personnel such as general managers. Additionally the exemption does not extend to personnel who act as agents or managers for individual athletes. The exemption does not affect prices charged for admission to sporting events which remain subject to controls in accordance with generally applicable Price Commission regulations.

Subpart E is amended in § 101.51(d) to add a definition of employees for purposes of the small business exemption.

Because the purpose of this amendment is to amend and modify Part 101 to provide immediate guidance and information as to Cost of Living Council regulations 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.

This amendment shall become effective when filed with the Office of the Federal Register.

DONALD RUMSFELD,
Director, Cost of Living Council.

Part 101 of Chapter 1 of Title 6 of the Code of Federal Regulations is amended as follows:

1. Subpart A is amended in § 101.2 to add a definition of "professional athletes" to be inserted alphabetically and to revise the definition of "annual sales or revenues."

§ 101.2 Definitions.

* * * * *

"Annual sales or revenues" means the total gross receipts of a firm during its most recent fiscal year, from whatever source derived, except that it does not include gross receipts of or from a foreign branch or division of such a firm, or the gross receipts of or from a wholly or partially owned foreign entity such as a corporation, partnership, joint venture, association, trust, or subsidiary, if the gross receipts of such foreign entity, branch, or division are derived primarily from transactions with other foreign firms. A foreign entity, branch, or division is one located outside the several States and the District of Columbia. However, gross receipts of domestic entities from U.S. export sales

and from sales to firms in the Commonwealth of Puerto Rico are included in the determination of annual sales or revenue.

* * * * *

"Professional athlete" means any individual who undertakes or engages in, as a means of livelihood or for economic gain, either individually or as an employee of a professional sports organization, competitive sporting events requiring physical agility or strength.

* * * * *

2. Subpart D is revised and amended to add § 101.35(c) to read as follows:

§ 101.35 Certain pay adjustments.

* * * * *

(c) *Professional athletes.* Pay adjustments of professional athletes, and pay adjustments of managers and coaches of professional athletes, when such managers and coaches are employed by professional sports organizations employing professional athletes.

3. Subpart E is revised and amended in the title of § 101.51(d) and to designate existing § 101.51(d) as subparagraph (2) of § 101.51(d) and to add a new subparagraph (1) to read as follows:

§ 101.51 Exemption of firms with 60 or fewer employees.

* * * * *

(d) Definitions:

(1) "Employee" means any person residing in and employed in the several States or the District of Columbia for whom an employer is required to pay taxes imposed pursuant to the Federal Insurance Contributions Act, 1939, as amended, 26 U.S.C. section 3101, et seq. (FICA), and any person otherwise excluded under FICA, who performs services for any firm as an agent-driver or commission-driver engaged in the distribution of milk for his principals.

* * * * *

[FR Doc.72-11577 Filed 7-21-72;4:38 pm]

Title 7—AGRICULTURE

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

[Lemon Reg. 542, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engaged in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because of the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 910.842 (Lemon Regulation 542, 37 F.R. 13971) during the period July 16, through July 22, 1972, is hereby amended to read as follows:

§ 910.842 Lemon Regulation 542.

* * * * *

(b) *Order.* (1) * * * 300,000 cartons.

* * * * *

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

Dated: July 20, 1972.

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

[FR Doc.72-11493 Filed 7-24-72;8:54 am]

[Lime Reg. 6, Amdt. 1]

PART 911—LIMES GROWN IN FLORIDA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 37 F.R. 10497), regulating the handling of limes grown in Florida, 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 Florida Lime Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of limes available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lime Regulation 6 (37 F.R. 13971). The marketing picture now indicates that there is a greater demand for limes than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of limes to fill the current market demand thereby making a greater quantity of limes available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of limes grown in Florida.

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 911.406 (Lime Regulation 6, 37 F.R. 13971) is hereby amended to read as follows:

§ 911.406 Lime Regulation 6.

* * * * *

(b) *Order.* (1) The quantity of limes grown in Florida which may be handled during the period July 16, 1972, through July 22, 1972, is hereby fixed at 22,500 bushels.

* * * * *

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

Dated: July 20, 1972.

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

[FR Doc.72-11494 Filed 7-24-72;8:54 am]

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Limitation of Shipments

Notice of proposed rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR Part 947), regulating the handling of Irish potatoes grown in the production area defined therein, was published in the FEDERAL REGISTER, July 11, 1972 (37 F.R. 13553). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than 7 days after publication. None was filed.

Findings. After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice which was recommended by the Oregon-California Potato Committee, it is hereby

found and determined that this limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

The grade, size, quality, and maturity requirements as provided herein are necessary to prevent potatoes of low quality, or undesirable sizes from being distributed into fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop, and maximize returns to the producers for the preferred quality and sizes.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

A specified quantity of potatoes may be handled without regard to maturity requirements in order to permit growers to make test diggings without loss of the potatoes so harvested.

Shipments may be made to certain special purpose outlets without regard to minimum grade, size, cleanliness, and maturity requirements, provided that safeguards are used to prevent such potatoes from reaching unauthorized outlets. Certified seed is so exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed within the production area or to specified adjacent areas are likewise exempt; a limit to the destinations of such shipments is provided so that their use for the purpose specified may be reasonably assured. Shipments of potatoes between Districts 2 and 4 for planting, grading, and storing are exempt from requirements because these two areas have no natural division. Other districts are more clearly separated and do not have this problem. For the same reason, potatoes grown in District 5 may be shipped without regard to the aforesaid requirements to specified locations in Idaho, Washington, and Malheur County, Oreg., for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are exempt. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part and therefore shipments to processing outlets are unregulated.

Requirements for export shipments differ from those for domestic markets; while high quality standards are desired in foreign outlets, smaller sizes are more acceptable. Therefore, different requirements for export shipments are provided.

Inspection requirements are waived in certain portions of Districts 4 because the area is remote from inspection facilities and this requirement would cause unreasonable hardship to growers in this area.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that shipments of potatoes grown in the production area are currently being marketed and the regulation should become effective at the time herein provided to maximize the benefits to producers. Oregon-California Potato Committee held an open meeting June 20, 1972, to consider recommendations for a limitation of shipments regulation, after due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the recommendations by the committee has been disseminated among the growers and handlers of potatoes in the production area; compliance with this section will not require any special preparation of potato sorting and packing equipment on the part of handlers subject thereto which cannot be completed on or before the effective time hereof.

Termination of regulations. Limitation of shipments § 947.330 effective October 16, 1971, through October 15, 1972, shall be terminated upon the effective date of this section.

§ 947.331 Limitation of shipments.

During the period July 24, 1972, through October 15, 1973, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), (d), and (h) of this section, or unless such potatoes are handled in accordance with paragraphs (e), (f), (g), and (i) of this section.

(a) Grade requirements: All varieties—U.S. No. 2, or better grade: *Provided,* That potatoes graded U.S. Commercial shall meet all of the requirements of U.S. No. 1, except they may be "slightly dirty."

(b) Size requirements: All varieties—2 inches minimum diameter or 4 ounces minimum weight.

(c) Cleanliness requirements: All varieties—U.S. Commercial may be no more than "slightly dirty"; all other grades as required in the U.S. Standards for Grades of Potatoes.

(d) Maturity (skinning) requirements:

(1) All varieties—no more than "moderately skinned."

(2) Not to exceed a total of 100 hundredweight of any variety of a lot of potatoes may be handled for any producer any 7 consecutive days without regard to the aforesaid maturity requirements. Prior to each shipment of potatoes exempt from the above maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(e) Special purpose shipments: The minimum grade, size, cleanliness, and maturity requirements set forth in paragraphs (a), (b), (c), and (d) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Certified seed.

(2) Livestock feed: *Provided,* That potatoes may not be shipped for such purpose outside the production area except that potatoes may be shipped to the States of Idaho, Washington, and to Malheur County in the State of Oregon for livestock feed.

(3) Planting: *Provided,* That potatoes may not be shipped for such purposes outside of the district where grown except that potatoes grown in District No. 2 or District No. 4 may be shipped for planting within, or to such district for such purposes.

(4) Grading or storing, under the following provisos:

(i) Within the production area for grading or storing if such shipments meet the safeguard requirements of paragraph (f) of this section;

(ii) Potatoes grown in District No. 2 or District No. 4 may be shipped for grading or storing within or to such districts without regard to the safeguard requirements;

(iii) Potatoes grown in District 5 may be shipped for grading or storing to any specified locations in the adjoining State of Idaho and the counties of Benton, Franklin, and Walla Walla in the State of Washington and Malheur County in the State of Oregon for such purposes; and

(iv) Potatoes grown in any one district may be shipped without regard to the safeguard requirements, to a receiver in any other district if such receiver is determined by the committee to be a processor of canned, frozen, dehydrated, prepeeled products, potato chips, or potato sticks.

(5) Charity.

(6) Canning, freezing, prepeeling, and "other processing" as hereinafter defined: *Provided,* That shipments of potatoes for the purposes specified pursuant to this subparagraph shall be exempt from inspection requirements specified in paragraph (h) of this section and from assessment requirements specified in § 947.41.

(7) Export: *Provided,* That all shipments of potatoes for the purpose specified pursuant to this subparagraph shall be U.S. No. 1 grade or better and 1½ inches or larger in diameter.

(f) Safeguards:

(1) Each handler making shipments of seed pursuant to paragraph (e) shall furnish the committee with either a copy of the applicable certified seed inspection certificate or shall apply for and obtain a certificate of privilege and, upon request of the committee, furnish reports of each shipment made pursuant to each certificate of privilege.

(2) Each handler making shipments of potatoes pursuant to subparagraphs (2), (4)(i), (6), and (7) of paragraph (e) of this section and each receiver of potatoes pursuant to subparagraphs (4)(i) and (iv) of paragraph (e) of this section, shall:

(i) First, apply to the committee for and obtain a certificate of privilege to make such shipments;

(ii) Prepare, on forms furnished by the committee, a report in quadruplicate on such shipments as may be requested by the committee; and

(iii) Within 48 hours of the date of shipment forward one copy of such diversion report to the committee office and forward two copies to the receiver with instructions to the receiver that he sign

and return one copy to the committee office within 14 days of shipping date. The handler and receiver may each keep one copy for their files.

Failure of handler to report within 48 hours or receiver to report such shipments within 14 days of shipping date by signing and returning the applicable diversion report to the committee office shall be cause for cancellation of such handler's certificate of privilege and/or the receiver's eligibility to receive further shipments pursuant to any certificate of privilege. Shipment of potatoes by a certificate-of-privilege holder to an ineligible receiver shall be cause of cancellation of the handler's certificate of privilege. Upon the cancellation of any such certificate of privilege, the handler may appeal to the committee for reconsideration. Such appeal shall be in writing: *Provided,* That such requirements of this paragraph shall not be applicable to shipments of potatoes for starch.

(g) Minimum quantity exception: Each handler may ship up to but not to exceed 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds 5 hundredweight of potatoes.

(h) Inspection: For the purpose of operation under this part, unless exempted from inspection by the provisions of this section, each required inspection certificate is hereby determined, pursuant to § 947.60(c), to be valid for a period of not to exceed 14 days following completion of inspection as shown on the certificate. The validity period of an inspection certificate covering inspected and certified potatoes that are stored in refrigerated storage within 14 days of the inspection shall be the entire period such potatoes remain in such storage: *Provided,* That in District 4, potatoes grown over 40 airline miles from the post office, Tulelake, Calif., shall be exempt from the requirements of § 947.60, *Inspection and certification.*

(i) Any lot of potatoes previously inspected pursuant to § 947.60(a) is not required to have additional inspection under § 947.60(b) after regrading, resorting, or repacking such potatoes, if the inspection certificate is valid at the time of handling such regraded, resorted, or repacked potatoes.

(j) Definitions:

(1) The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1566 as amended February 5, 1972) (37 F.R. 3745) including the tolerances set forth therein.

(2) The term "slightly dirty" means potatoes that are not damaged by dirt.

(3) The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removing the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 U.S. Standards for grades of peeled potatoes (§§ 52.2421–52.2433 of this title).

(4) The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, or starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing."

(5) Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and this part.

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

Dated July 19, 1972, to become effective July 24, 1972.

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

[FR Doc.72-11434 Filed 7-24-72;8:51 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 72-845]

PART 545—OPERATIONS

Loans by Federal Savings and Loan Associations

JULY 18, 1972.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend § 545.6-1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.6-1) for the purpose of increasing the percentage-of-value limitation, on certain loans having certain insurance or guarantee by an agency or instrumentality of a State, to 100 percent of the value of a home located within the association's regular lending area. Accordingly, the Federal Home Loan Bank Board hereby amends said § 545.6-1 by revising subparagraph (6) of paragraph (a) thereof to read as follows, effective July 25, 1972:

§ 545.6-1 Lending powers under sections 13 and 14 of Charter K.

Any Federal association which has Charter K may, under sections 13 and 14 thereof, make the following types of loans on the security of first liens on improved real estate and the use by such an association of loan plans, practices, and procedures which comply with the applicable provisions of §§ 545.6 to 545.6-13, are hereby approved by the Board:

(a) *Homes or combination of homes and business property.* * * *

(6) Loans to 100 percent of value. The limitation of 80 percent set forth in subdivision (i) of subparagraph (1) of this paragraph shall be 100 percent in the case of any loan which is made on the security of:

(i) A single-family dwelling located within the association's regular lending area if such loan is made under regulations for the Housing Opportunity Allowance Program contained in Part 527 of this chapter; or

(ii) A home located within the association's regular lending area if at least that portion of such loan which exceeds 80 percent of the value of the security property is insured or guaranteed by an agency or instrumentality of a State whose full faith and credit is pledged to the support of such insurance or guarantee.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that, since the above amendment relieves restriction, the Board hereby finds that notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72-11481 Filed 7-24-72;8:56 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12063, Amdt. 39-1492]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley de Havilland Model DH-104 "Dove" Airplanes

Amendment 39-1033 (35 F.R. 11385) AD 70-15-6 requires inspection of the main spar lower pick-up fittings for chrome plated bores; inspections of the main spar lower pick-up fittings, center section main spar lower fitting, and lower wing attachment bolt for corrosion, pitting, fretting, and cracks; replacement of defective parts; and corrosion protection of the entire wing

lower attachment fitting assembly upon reassembly on Hawker Siddeley de Havilland Model DH–104 "Dove" airplanes. One of the inspections required by the AD is an eddy current or magnaflux inspection of the main wing spar lower pick-up fitting bore. It has recently come to the attention of the FAA that not all eddy current or magnaflux inspection equipment is suitable for the inspection of the type of ferrous material used in the Model DH–104 "Dove" airplane main wing spar lower pick-up fitting bores and that an inspection using some equipment might not adequately detect cracks in main spar lower pick-up fitting bores. Failure to detect a crack could result in an in-flight loss of a wing. In addition, the FAA has determined that Modification 686, which the AD requires to be incorporated on all "Doves" not already so modified, is not necessary on "Dove" airplanes incorporating certain modifications. Therefore, the AD is being superseded by a new AD which revises the instructions on inspection techniques and equipment and limits the incorporation of Modification 686 to those "Doves" which incorporate Modification 538. The FAA has further determined that when the proper inspection techniques and equipment are used, the repetitive inspection intervals specified in the AD are more stringent than are necessary, and therefore the new AD changes those intervals from 2,500 hours' time in service or 3 years, whichever occurs first, to 4,500 hours' time in service for the inspection of the bore of the wing main spar lower pick-up fitting and 6 years for all other inspections.

In addition, Hawker Siddeley Model DH–104 "Dove" airplanes which have been modified to incorporate Supplemental Type Certificate SA 1747WE are excluded from the requirements of this AD. AD 72–10–3, Amendment 39–1443, issued by the Western Region, is applicable to "Dove" airplanes incorporating STC 1747WE.

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:

HAWKER SIDDELEY AVIATION LTD. Applies to de Havilland "Dove" Model DH–104 airplanes which have not been modified to incorporate Supplemental Type Certificate SA 1747WE.

To prevent a possible failure of the wing to fuselage attachment, accomplish the following:

(a) Within the next 25 hours' time in-service after the effective date of this AD, unless already accomplished in accordance with one of the AD's specified in subparagraph (a)(4), comply with subparagraphs (a)(1), (a)(2), and (a)(3), and thereafter comply with subparagraph (a)(2) at intervals not to exceed 6 years from the last inspection and comply with subparagraph (a)(3) at intervals not to exceed 4,500 hours' time in service from the last inspection.

(1) Inspect the bore of the wing main spar lower pick-up fittings for chrome plating in accordance with de Havilland Service Technical News Sheet, Series: CT(104), No. 178, Issue 1, dated July 10, 1961, or an FAA-approved equivalent. If a bore is found to be chrome plated, before further flight, replace the affected fitting with a serviceable fitting that does not have a chrome plated bore.

(2) Inspect the wing main spar lower pick-up fittings, the fuselage center section spar boom lugs, and the main wing to fuselage lower attachment bolts for corrosion, surface roughness, and signs of fretting in accordance with Appendix 1 of Hawker Siddeley Aviation Ltd., Technical News Sheet, Series: CT(104), No. 168, Issue 4, dated July 12, 1971, or an FAA-approved equivalent.

(3) Inspect the total length of the bore of the wing main spar lower pick-up fittings for cracks in accordance with Appendix 2, of Hawker Siddeley Aviation Ltd., Technical News Sheet, Series: CT(104), No. 168, Issue 4, dated July 12, 1971, or an FAA-approved equivalent. Eddy current equipment, of a manufacture not specified in the referenced service bulletin, may be used to comply with this subparagraph, if the equipment meets the sensitivity requirement contained in the referenced service bulletin, the equipment is suitable for inspection of ferrous materials, and the procedure used to operate the equipment complies with the equipment manufacturer's recommended operating instructions.

(4) Previous AD's on this same subject which may be used in establishing compliance with the initial inspection specified in paragraph (a) are: AD 70–15–6, Amendment 39–1033 issued on July 8, 1970; AD 70–12–8, Amendment 39–1009 dated June 8, 1970; AD 67–32–3, Amendment 39–513 issued November 9, 1967; AD 61–18–3, Amendment 329 to Part 507 issued August 25, 1961; and the telegraphic AD's dated May 28, 1970, and June 11, 1970.

(b) Each time the wing to fuselage lower joint is reassembled after any inspection required by this AD or for any other reason, apply corrosion protection in accordance with Appendix 1 of Hawker Siddeley Aviation Ltd., Technical News Sheet, Series: CT(104), No. 108, Issue 4, dated July 12, 1971, or an FAA-approved equivalent, and incorporate Modification 686 bolts and shims upon reassembly of the wing to fuselage lower joint on those airplanes having Modification 538 installed.

(c) If during the inspections required by subparagraphs (a)(2) or (a)(3), corrosion, pitting, fretting, or corrosion discoloration is found which cannot be removed using the procedures in Appendix 1 of Hawker Siddeley Aviation Ltd., Technical News Sheet, Series: CT(104), No. 168, Issue 4, dated July 12, 1971, or an FAA-approved equivalent, or if cracks are found in the wing main spar pick-up fitting bore, before further flight, replace the affected part with a serviceable part of the same part number.

This amendment supersedes Amendment 39–1033 (35 F.R. 11385), AD 70–15–6.

This amendment becomes effective July 31, 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 18, 1972.

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

[FR Doc.72–11425 Filed 7–24–72;8:49 am]

[Docket No. 12062, Amdt. 39–1491]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls-Royce Dart Series Models 506, 510, 511, 514, 525 Through 529, 531, and 532 Engines and All Variants

There have been reports that during the overhaul of the first- and second-stage impellers incorporating Modification 797 that are installed on certain Rolls-Royce Dart series engines, the chemical stripping and reanodizing were accomplished without sealing off the bores. This "open bore processing" resulted in an intergranular attack on the material inside the bore and a structural weakening of those impellers. In addition, the FAA has determined that second-stage impellers incorporating certain modifications sustain a higher stress in operation than was originally calculated and that the use of those impellers beyond the service-life limits specified in this directive could result in fatigue cracks and cause engine failure. Since these conditions are likely to exist or develop in impellers of the same type design, an airworthiness directive is being issued to establish service lives for the Rolls-Royce engine impellers covered by this directive.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest 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:

ROLLS-ROYCE (1971), LTD. Applies to Dart Series Models 506, 510, 511, 514, 525 through 529, 531, and 532 engines and all variants.

Compliance required as indicated unless already accomplished.

To prevent engine failures resulting from fatigue cracks of the impellers specified in Column 2 of the following table, accomplish the following:

(a) Within the next 50 flights after the effective date of this AD or before the accumulation of the number of flights specified in Column 3, for the applicable impeller, whichever occurs later, and thereafter at intervals not to exceed the number of flights specified in Column 3, replace the applicable impellers specified in Column 2 when they are installed on the engines specified in Column 1 with impellers having the same part number or a part number approved for that engine which have not exceeded their life limits.

(Column 1) Dart engine series	(Column 2) Impellers	(Column 3) Life limits (flights)
Models 506, 510, 511, and 514 and all variants.	Second stage impellers incorporating all Pre-797 Modifications.	4,500.
	Second stage impellers incorporating Modification 797 which have not been Open Bore Processed.[1]	9,000.
	First and second stage impellers incorporating Modification 797 Open Bore Processed.[1]	1st stage—10,500 2d stage—6,000
	Second stage impeller incorporating Modification 1455.	14,000 since the incorporation of Modification 1455.
Models 525 through 529, 531, and 532 and all variants.	Second stage impellers incorporating all Pre-797 Modifications.	4,500.
	Second stage impellers incorporating Modification 797 which have not been Open Bore Processed.[1]	14,000.
	First and second stage impellers incorporating Modification 797 Open Bore Processed.[1]	1st stage—9,000 2d stage—11,000

[1] For purposes of this AD "Open Bore Processed" means that the impeller during an overhaul subsequent to the incorporation of Modification 797, has been stripped and anodized or anodized, without the impeller bore being fitted with blanks, or that leakage past the blanks has occurred due to an improper fitting of the blanks.

(b) For the purpose of complying with this AD a flight shall constitute an engine operating sequence consisting of an engine start, takeoff operation, landing and engine shutdown. The number of flights may be determined by actual count or, subject to approval, by the FAA assigned maintenance inspector, by dividing the impeller time in service by the operator's fleet average time per flight.

This amendment becomes effective July 31, 1972.

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

Issued in Washington, D.C., on July 18, 1972.

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

[FR Doc.72-11426 Filed 7-24-72;8:49 am]

[Docket No. 12061, Amdt. 39-1490]

PART 39—AIRWORTHINESS DIRECTIVES

S.N.I.A.S. Alouette Astazou SA3180, SA318B, and SA318C Helicopters

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), an airworthiness directive was adopted on June 15, 1972, and made effective immediately as to all known U.S. operators of Societe Nationale Industrielle Aerospatiale (S.N.I.A.S.—formerly SUD Aviation) Alouette Astazou SA3180, SA318B, and SA318C helicopters which have not been modified in accordance with Aerospatiale Service Bulletin No. 65.82 dated October 25, 1971, or an FAA-approved equivalent. The directive required repetitive replacement of flexirac union assemblies, either P/N L.16.03 or P/N LS.16.03, with new assemblies of the same part number or reinforcement of the assemblies because of reports of cracks on the flanges of the half sleeves fitted on the flexirac union assembly of the main gearbox to oil cooler oil lines which could result in severe oil leaks, loss of lubrication to the main gearbox, and possible main gearbox failure.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Societe Nationale Industrielle Aerospatiale (S.N.I.A.S.—formerly SUD Aviation) Alouette Astazou SA3180, SA318B, and SA318C helicopters not modified in accordance with Aerospatiale Service Bulletin No. 65.82, dated October 25, 1971, or an FAA-approved equivalent by individual telegrams dated June 15, 1972. These conditions still exist and the airworthiness directive, with an editorial change to the applicability statement to correct a telegraphic error, is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (S.N.I.A.S.—FORMERLY SUD AVIATION). Applies to Alouette Astazou SA3180, SA318B, and SA318C helicopters which have not been modified in accordance with Aerospatiale Service Bulletin No. 65.82 dated October 25, 1971, or an FAA-approved equivalent.

Compliance required as indicated.

To prevent possible cracks or failures of the half sleeves fitted on the flexirac unions on the main gearbox to cooler oil line, accomplish the following in accordance with Aerospatiale Service Bulletin No. 05.39, amended November 10, 1971, or an FAA-approved equivalent.

(a) For helicopters fitted with half sleeves, P/N L.16.06, on-flexirac union assemblies, P/N L.16.03, before further flight unless already accomplished within the last 100 hours' time in service, and thereafter at intervals not to exceed 100 hours' time in service on the half sleeves, replace the half sleeves, P/N L.16.06, by replacing the assembly, P/N L.16.03, with a new assembly of the same part number.

(b) For helicopters fitted with half sleeves, P/N LS.16.06, on flexirac union assemblies, P/N L.S.16.03, before further flight unless already accomplished within the last 800 hours' time in service, and thereafter at intervals not to exceed 800 hours' time in service on the half sleeves, replace the half sleeves, P/N LS.16.06, by replacing the assembly, P/N LS.16.03, with a new assembly of the same part number.

(c) Replacement of the half sleeves in accordance with paragraphs (a) and (b) may be discontinued when the flexirac union on the main gearbox oil pump is reinforced in accordance with Aerospatiale Service Bulletin No. 65.82 dated October 25, 1971, or an FAA-approved equivalent.

This amendment is effective upon publication in the FEDERAL REGISTER (7-25-72) as to all persons except those persons to whom it was made immediately effective upon receipt of the telegram dated June 15, 1972, which contained this amendment.

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

Issued in Washington, D.C., on July 18, 1972.

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

[FR Doc.72-11427 Filed 7-24-72;8:49 am]

[Docket No. 11437, Amdts. 43-15, 61-59, 91-101, 135-33]

PART 43—MAINTENANCE, PREVENTATIVE MAINTENANCE, REBUILDING, AND ALTERATIONS

PART 61—CERTIFICATION; PILOTS AND FLIGHT INSTRUCTORS

PART 91—GENERAL OPERATING AND FLIGHT RULES

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

Large and Turbine-Powered Multiengine Airplanes

The purpose of this amendment is to add a new Subpart D to Part 91 prescribing general operating rules for large or turbojet-powered multiengine airplanes and an inspection program for large and turbine-powered multiengine airplanes (turbopropeller and turbojet powered). The inspection program also applies to turbine-powered multiengine airplanes operated by the holder of an ATCO certificate under Part 135.

Interested persons have been afforded the opportunity to participate in the making of these regulations by a notice of proposed rule making issued as Notice 71-32 on October 7, 1971 (36 F.R. 19507). Approximately 275 comments were received from various individuals, aeronautical associations, and government agencies in response to that notice. The comments have been very helpful in resolving the many issues involved in the formulation of this final rule.

Comments received from the National Business Aircraft Association (NBAA) were directed to two aspects of the notice. The kind of operations that could be conducted under § 91.181 of the proposal, and the operations and inspection rules set forth in §§ 91.183-91.219. With respect to the first aspect of the rules, NBAA recommended changes in the applicability of Subpart D to include a fuller use of aircraft in private carriage. If a fuller use of the aircraft is permitted, the NBAA favors the safety rules set forth in §§ 91.183-91.219, with certain changes described in detail herein.

Comments received from other associations and government agencies ranged from a qualified opposition to a complete agreement with the proposed rules. For example, the Aircraft Owners and Pilots Association believes the rules should apply to a corporate operator, but not to a private operator. The General Aviation Manufacturing Association believes the rules should apply to airplanes having 10 or more passenger seats since the 12,500-pound dividing line is no longer valid. The Air Transport Association believes the rules should only apply to operators of aircraft who do not hold an air carrier operating certificate, and ferry flights, training flights, check flights, etc., conducted by the holders of those certificates should be excepted from the proposed rules. The National Air Transportation Conference believes the rules should apply only to passenger-carrying aircraft. At the other end of the spectrum, the Air Line Pilots Association and the Chicagoland Business Pilots Association support the proposed rules as a step toward improving air safety for all operators. The National Transportation Safety Board favors the rules, while the British Air Registration Board recommends that the takeoff runway requirements of proposed § 91.205 be replaced with a rule similar to § 91.37 (b) and (c).

Approximately 250 comments were received from individuals and corporations. While most of the comments received from the corporate operators endorsed the position of the NBAA, some of those comments recommended different or additional changes. A few commentators were opposed to all the proposed operating or safety rules, except those rules requiring flying equipment and flight attendants for passenger-carrying aircraft.

Many of the commentators expressed the opinion that the subpart should not apply to small turbopropeller-powered multiengine airplanes. It is their opinion that some small supercharged reciprocating engine-powered airplanes have performance capabilities similar to small turbopropeller-powered airplanes. Yet, under the proposed rules those reciprocating engine-powered airplanes would not be required to be operated under the provisions of Subpart D. Upon further consideration we are persuaded that there is no demonstrated need at this time to require small turbopropeller-powered multiengine airplanes to be operated under the rules of Subpart D. This decision, however, does not apply to the inspection program requirements which, in our opinion, should be required for all turbine-powered multiengine airplanes (turbopropeller- and turbojet-powered airplanes) as proposed in the notice. Section 91.181(a) as adopted herein reflects this change in the applicability of Subpart D.

For many years the term "compensation," as used in the definition of a commercial operator and the applicability provisions of Part 121, has been construed in its legal sense which does not limit that term to an element of profit, but includes any reimbursement for the expenses for the operation of the aircraft. Comments received from the corporate operators strongly urged a change in that policy. They contend that in most cases involving wet-lease agreements (lease of an aircraft with flight crew) a charge is made for the operating expenses of the aircraft solely for the purpose of complying with the requirements of the U.S. Internal Revenue Service—not for the purpose of making a profit. Therefore, in response to the request for comments in regard to time sharing and interchange agreements, these commentators urged that a monetary charge be permitted under either of these arrangements, so long as there is no profit motive involved in the charges made.

As stated in the preamble to NPRM 71–32 the decision to proceed with the upgrading of Part 91 for large and turbine-powered multiengine airplanes is an important threshold step in the FAA policy to remove, to the extent possible, those differences in the safety standards that are primarily economic in nature and result in unnecessary restrictions or limitations on aircraft operators. In accordance with that policy, the need for different or additional safety standards for corporate operations should be resolved on the basis of safety, rather than economics or juristic semantics. Safetywise, we have determined that neither the relationship of the corporations nor the type of compensation received for the services rendered should be relevant or controlling under the standards of the new Subpart D for the various corporate kinds of operations that do not involve common carriage.

In order to make this change in policy clear to all interested persons, § 91.181(b) includes a list of the kinds of operations that may be conducted under Subpart D. In addition § 91.181(c) of Subpart D expressly provides that charges covering the normal operating expenses of the aircraft and salary of the crew may be made under a time sharing or interchange agreement as defined in that section. This policy also applies to a corporation regardless of its relationship, if any, to the corporation for which the carriage is conducted. Accordingly, the application of Subpart D to a corporate operator will no longer be dependent upon whether that operator is a parent or subsidiary corporation, or a member of a conglomerate. It should be noted, however, that if a corporation is established solely for the purpose of providing transportation to the parent corporation, a subsidiary, or other corporation, the foregoing policy does not apply. In that case, the primary business of the corporation operating the airplane is transportation and the carriage of persons or goods for any other corporation, for a fee or charge of any kind, would require the corporation operating the airplane to hold a commercial operator certificate under Part 121 or 135, as appropriate.

Some of the commentators requested expansion of the applicability of Subpart D to permit a jointly owned airplane to be operated under the safety standards of that subpart when the flight crew is furnished and employed by one of the joint owners. In regard to such operations we have concluded that if the flight crew is employed and furnished by one of the joint owners and continues in the employ of that owner when the airplane is used by another joint owner, it will be presumed that the joint owner employing and furnishing the flight crew is the operator of the airplane within the meaning of the Federal Aviation Regulations. Unless otherwise agreed to by the owners, he is responsible for compliance with the safety regulations applicable to that flight, even though the joint owner using the airplane at the particular time has the authority to specify the destination of the flight and the persons or cargo that may be carried on that flight. Safetywise, we perceive no reason under those circumstances to require the joint owner, as the operator of that airplane, to hold a commercial operator certificate. Accordingly, § 91.181(c) has been amended to permit such operations to be conducted under subpart D. If any charge is made by the operator in excess of the normal operating expenses of the flight, including fuel, oil, hangar and landing fees, and salary of the crew, the operation, of course, may not be conducted under Subpart D. When such charges are made, the operator must hold a commercial operator certificate and conduct the operation under the provisions of Part 121 or 135, as appropriate.

The carriage of persons on an airplane for the purpose of selling to them land, goods, or other property (including franchises) was described in the preamble to NPRM 71–32 as a corporate aircraft operation. However, the preamble did not further articulate the FAA policy in regard to such operations when conducted as an incident to the business of the corporation operating the aircraft. In recent years there has been an increase in the use of corporate aircraft for the carriage of prospective customers, especially as an incident to the business of real estate development and sales. It has been the policy of the FAA to permit the corporation to transport those customers on its aircraft without holding a commercial operator certificate, so long as no charge is made for the transportation and common carriage is not involved. It is our opinion that this policy should be continued without change. Accordingly, § 91.181(b)(9) of the rule as adopted herein expressly permits the carriage of prospective customers under the rules of Subpart D. However, no charge of any kind may be made for that carriage, regardless of whether the charge represents the customer's pro rata operating expenses for the flight, or a loss. To permit a charge of any kind for the carriage of the customers would require constant surveillance and time-consuming investigations by FAA inspectors to determine if the charge represents an amount that is permitted under the regulations, or is in fact considered compensation as that term is used in the definition of a commercial operator. Moreover, it should be noted that such operations may, under certain circumstances, result in the car-

riage of persons as a common carrier for compensation or hire. In that event, the person operating the airplane may be required to hold a certificate of public convenience and necessity or other appropriate economic authority from the Civil Aeronautics Board in addition to an air carrier operating certificate from the Administrator.

The preamble to NPRM 71-32 stated that a GENOT was issued by the FAA to make it clear that a "manufacturer" or "aircraft sales company" did not need a commercial operator certificate to demonstrate aircraft in flight to a prospective customer when that customer is charged a fee to defray the normal operating expenses of the flight, including fuel, oil, hangar or landing fees, and salary of the flight crew. In our judgment the authorization should be equally applicable to the owner of the aircraft regardless of whether he is a manufacturer or aircraft salesman. For this reason the language of § 91.181(b)(3), as proposed in the notice, did not limit such authorization to a "manufacturer" or "aircraft sales company." Since there were no objections to that proposal, the rule as adopted herein permits such customer demonstrations by the owner of the airplane as well as the manufacturer, or sales company.

Inasmuch as the foregoing policies permit a greater use of corporate aircraft under joint ownership, time sharing, and interchange agreements, it appears desirable to restate herein the FAA policy in regard to the operation of an airplane under those agreements when they constitute a wet lease (the lease of an aircraft with flight crew). When the lessor furnishes both the aircraft and flight crew, there is a presumption that the operational control and safety responsibility for the aircraft remains in the hands of the lessor during the lease agreement and he becomes the operator of the aircraft as that term is used in the Federal Aviation Regulations. This policy conforms with the policy recently adopted by the Civil Aeronautics Board in those cases involving the lease of aircraft with crew by foreign air carriers or other foreign persons (14 CFR Part 218, as amended by ER-716; 36 F.R. 23146).

Whenever the aircraft and flight crew are furnished by separate and unrelated persons, as stated in the preamble to NPRM 71-32, it is presumed that the lessee of the aircraft is the operator of that aircraft within the meaning of the Federal Aviation Regulations. This presumption is not true, however, when the person furnishing the flight crew exercises control over all phases of the operation of the aircraft requiring any aviation expertise, and leaves to the lessee of the aircraft only those decisions normally made as to what and who is transported. Under those circumstances, the National Transportation Safety Board has upheld the FAA's position that the person furnishing the flight crew is the operator of the aircraft.

In an effort to make the parties to a lease agreement more fully aware of their responsibilities, the FAA recently proposed an amendment to § 91.54 of the FAR's that would require a "truth in leasing" clause to be inserted in leases involving certain aircraft (NPRM 71-35; 36 F.R. 20768). Among other things, the truth-in-leasing clause inserted in the lease would identify the person responsible under the lease for the operation of the aircraft, and contain a certification by that person that he understands his responsibility for compliance with the applicable Federal Aviation Regulations. The proposed rule would also require a copy of the lease to be carried in the leased aircraft and made available for review upon request by the Administrator. If adopted, this rule should preclude the unintentional assumption of responsibility for operation agreement.

In view of the comments received in response to the notice, another change in the applicability of Subpart D was made. This change involved the carriage of goods or property on an airplane as an incident to a business other than transportation. Although it has been the policy of the FAA to permit a manufacturer to carry his materials from one factory to another for processing into a finished product, that policy did not further permit the carriage of the finished product to a customer or a distributor if a charge, direct or indirect, was made for such transportation. While this limitation rested upon a proper legal interpretation of the term compensation, it is no longer necessary under the safety standards of Subpart D. Accordingly, under the rules as adopted herein, the FAA will permit the carriage of property (other than mail) on an airplane operated by a person in the furtherance of a business (other than transportation), when the carriage is incidental to that business and no charge is made for that carriage in excess of the normal operating expenses of the flight. Although this change in policy permits a greater use of an airplane as an incident to a business or profession, it does not change the FAA policy in regard to the carriage of goods or property by airplane when such carriage is the primary business of the operator of that airplane. When such carriage is in fact a major enterprise in itself, it may not be conducted by any person unless he holds an operating certificate under Part 121 or 135, as appropriate.

As previously stated, one commentator recommended that the rules in Subpart D should not apply to ferry or training flights conducted by an air carrier or commercial operator holding an operating certificate under Part 121. The language of § 91.181 of the proposed subpart expressly applies to ferry or training flights since those flights are not required to be conducted under the rules of Part 121 or 135 of the Federal Aviation Regulations. If those flights are also excepted from the operating rules of Subpart D, it would result in a dual standard of safety for large airplanes or turbojet-powered multiengine airplanes when passengers or cargo are not carried for compensation or hire. Such a policy is undesirable and would defeat the purpose of the rules prescribed in Subpart D. However, to the extent that a particular rule in Subpart D is not appropriate for a ferry or training flight, the rule includes an exception for those flights.

The recommendation that Subpart D applies to aircraft having 10 or more passenger seats, rather than large airplanes as defined in Part 1 of the Federal Aviation Regulations, goes beyond the scope of the notice and is not discussed herein.

The descriptive list in § 91.181(b) containing the kinds of operations that may be conducted under Part 91 and Subpart D applies to large and turbojet airplanes. Although this list appears to be equally applicable to small and other airplanes not covered by Subpart D, for the convenience of all operators a separate rulemaking action will be initiated to expressly include that list and any changes thereto that are deemed appropriate for such airplanes in Subpart A of Part 91.

Operating rules. In order to facilitate discussion of the safety rules as adopted herein, each rule is listed under a separate heading and discussed in the light of the comments received.

1. *Flying equipment and operating information.* The bulk of the comments received supported the provisions of § 91.183 as proposed. However, two changes have been made to that section. In order to preclude the use of a penlight or other inadequate light as a substitute for the type of flashlight normally carried on an airplane for emergency use, § 91.183(a)(1) has been changed to require a flashlight having at least two size "D" cells or equivalent. A new paragraph (d) has been added to make it clear that the equipment prescribed in that section is to be used by the pilot in command and other members of the flight crew, when appropriate. Finally, to correct a typographical error in § 91.183(a)(4) as proposed, the comma appearing after the symbol VFR has been deleted. As corrected the equipment specified in that subparagraph applies to "IFR, VFR over-the-top, or night operations."

2. *Familiarity with operating limitations and emergency equipment.* With the exception of approximately seven comments, all comments received supported the provisions of § 91.185 as proposed. Those comments received in opposition to this section were not opposed to the substance of the rule, but the policy of issuing a rule containing what they believe to be a good operating practice. We disagree with such a regulatory policy for those practices that must be accomplished for the safety of the flight; accordingly, the rule is adopted without change.

3. *Equipment requirements; Over-the-top, or night VFR operations.* No substantive comments were received in response to the provisions of § 91.187 and it is adopted without change.

4. *Survival equipment for overwater operations.* Several changes were made to the provisions of § 91.189 in response to the comments received.

The first change involves the substitution of "more than 30 minutes flying time

or a horizontal distance of more than 100 nautical miles from the nearest shoreline" for the term "extended overwater operations" (defined in Part 1 of the FAR's to mean a horizontal distance of more than 50 nautical miles from the nearest shoreline).

Comments received in response to the proposal strongly urged the increased distance for general aviation operations. As pointed out in some comments such equipment because of its weight is not kept on board an airplane permanently, but is usually rented and installed in the airplane when needed for a particular flight. Therefore, if the provision is adopted as proposed, the general aviation operators would be unable to use certain offshore routes now designated beyond 50 nautical miles from shore, unless they carried the required survival equipment which, they contend, would place an unnecessary weight restriction on their airplanes for operation over such routes. Moreover, as pointed out by some commentators, section 6.3.3 of Annex 6 to the Convention on International Civil Aviation only requires lifesaving rafts and survival radio equipment when the flight over water is more than 100 nautical miles from the shoreline for a single-engine airplane, and more than 200 nautical miles for multiengine airplanes with one engine inoperative performance. We are persuaded in the light of the comments received to increase the offshore distance from 50 to 100 nautical miles, but such equipment will also be required, regardless of the distance from the shoreline, if the flight is more than 30 minutes flying time from the nearest shoreline.

Paragraph (a) of § 91.189 as adopted herein still requires a life preserver or approved flotation means for each occupant of the airplane when a takeoff is made for a flight over water more than 50 nautical miles from the nearest shoreline. This distance conforms with the requirement for such equipment specified in § 6.3.3 of Annex 6. As used in § 91.189, an approved flotation means includes such means as buoyant seat cushions or other means that meet the requirements of TSO–C72.

To avoid the possibility of an unintentional violation by those pilots who find it necessary to fly over water beyond the distances specified in § 91.189 due to an ATC vector, or route change to avoid adverse weather, the rule requires the equipment only for a planned or intended flight over water beyond the distances specified.

The third change to § 91.189 involves the provision in paragraph (b) requiring the installation of the liferafts and other equipment in conspicuously marked and approved locations. The commentators point out that this requirement is inappropriate for those airplanes carrying equipment which is rented and installed on the airplane only for the duration of a particular trip. Upon reconsideration of that proposal in the light of the comments received we agree that the requirement for the stowage of the equipment in an approved location may be eliminated. However, we are not persuaded that the requirement for the conspicuous marking of the location at which the equipment is installed should be changed.

5. *Radio equipment for overwater operations.* For the reasons stated in item 4, the radio equipment requirements of § 91.191 have also been changed to require that equipment for a takeoff of a flight over water that is planned or intended to be conducted over water more than 100 nautical miles or 30 minutes flying time from the nearest shoreline.

A new paragraph (c) has been added to the rule as adopted to permit operation of the flight under certain conditions when the specified items of equipment malfunction or become inoperative.

Most of the comments received did not favor the marker-beacon receiver required by the proposed § 91.191(a)(4). Upon further review of this requirement the FAA agrees that a requirement for a marker-beacon receiver would serve no useful purpose except in those areas where there are adequate marker-beacon facilities on the surface. Such facilities do not exist for operations over water.

It is our opinion, however, that a marker-beacon receiver should be required for all IFR flights in other areas having marker beacons. Since such a requirement goes beyond the scope of the proposed § 91.191, the FAA intends to cover the substance of such a proposal in a separate rule making action.

In response to the suggestion of one commentator, the term "ground facility" has been changed to "surface facility" because the requirements of that section deal with overwater operations.

6. *Emergency equipment.* Many of the commentators recommended the following changes in the proposed § 91.193:

(a) Require the hand fire extinguisher specified in § 91.193(c)(2) to be located convenient to the flight deck, instead of on the flight deck.

(b) Require the hand fire extinguisher specified in § 91.193(c)(3) on airplanes accommodating more than nine passengers, instead of six passengers as proposed in that section.

(c) Delete the requirement in § 91.193 (e) for a crash ax.

Upon further review, the FAA agrees that § 91.193(c)(2) should permit greater flexibility for the physical location of the hand fire extinguisher required by that section. Accordingly, that section has been changed to require one hand fire extinguisher located on or near the flight-deck in a place that is readily accessible for use by the flightcrew. However, we are not persuaded that the hand fire extinguisher requirement should be modified to require such an extinguisher in the passenger compartment of an airplane that accommodates nine or more passengers, instead of more than six passengers as proposed in the notice.

The crash ax requirement has been retained in § 91.193(e) for those airplanes accommodating more than 19 passengers. Thus, any airplane for which one or more flight attendants may be required under § 91.215 will be equipped with a crash ax for use in an emergency.

7. *Flight altitude rules.* Most of the commentators urged the FAA to lower the minimum VFR altitude proposed in § 91.195 from 1,000 feet above the surface to 500 feet above the surface. This change, some pointed out, would conform with the minimum altitude of 500 feet prescribed in § 135.91 for air taxi operators. Others recommended that the minimum-altitude rule also include an exception for pipeline patrol, aerial surveying, and other operations for which low-level flying is necessary. Those comments appear to be based on a misunderstanding of the rule. Under the provisions of § 91.195(b)(2) as proposed and as adopted herein, such operations could be conducted under a waiver issued in accordance with the provisions of § 91.63.

We are not persuaded that the minimum altitude for VFR operations should be lowered to 500 feet above the surface. This is especially true since the subpart applies to large and turbojet-powered multiengine airplanes. Therefore, for the reasons stated in the preamble to the notice, § 91.195 prescribes a 1,000-foot minimum flight altitude for VFR.

8. *Smoking and safety belt signs.* The majority of the commentators expressly favored the provisions of proposed § 91.197. Therefore, for the reasons stated in the preamble § 91.197 is adopted as proposed.

9. *Passenger briefing.* Many of the corporate aircraft operators stated that repetitive briefings of the same passengers in regard to the same airplane are unnecessary and serve no useful purpose. The FAA agrees that repetitive briefings of those passengers who fly with the same pilots in the same airplanes on a frequent or regular basis is unnecessary. It was not intended in the proposed rule to require such repetitive briefings. To make this clear, the language of § 91.199 (b) expressly provides that an oral briefing need not be given when the pilot in command determines that the passengers are familiar with the contents of the briefing. This authority of the pilot in command will eliminate the need for repetitive oral briefings to the same passengers.

10. *Carry-on baggage.* Only seven comments were received in opposition to the provisions of proposed § 91.201. The comments stated that in the case of some small turbine-powered multiengine airplanes, suitable compartments would not be available for the stowage of carry-on items such as briefcases and tape recorders used en route by company officials. Since this section only applies to those airplanes having a seating capacity of more than 19 passengers, we perceive no reason why adequate space should not be made available for the stowage of carry-on baggage when that baggage is not being used on the airplane. Accordingly, the rule is adopted as proposed.

11. *Carriage of cargo.* Seven comments were received in general opposition to the provisions of proposed § 91.203. However, the vast majority of the comments received concurred with the rule. For the reasons set forth in the notice,

the rule is adopted herein without change.

12. *Operating limitations: Takeoff limitations for transport category airplanes.* Most of the commentators urged that the rule should give the pilot in command of the airplane final authority to determine whether the length of the runway is adequate to stop the airplane as required by § 91.205. They contend that this authority is necessary since runway gradient and other necessary information may not be available for some airports now used by the general aviation operators. As stated in the preamble to NPRM 71–32, the proposed § 91.205 was intended to prescribe takeoff accelerate-stop distance limitations for reciprocating engine-powered transport category airplanes similar to those prescribed in § 121.177(a)(1) for air carriers and commercial operators. Section 91.37 now provides that no person may take off any transport category airplane (other than a turbine engine powered airplane certificated after September 30, 1958) unless (1) the takeoff weight does not exceed the authorized maximum takeoff weight for the elevation of the airport of takeoff; and (2) the elevation of the airport of takeoff is within the altitude range for which maximum takeoff weights have been determined.

We believe the requirements of § 91.37 together with those in § 91.5 provide an adequate level of safety for takeoff of a transport category airplane (other than a turbojet-powered multiengine airplane certificated after September 30, 1958) without the need of the accelerate-stop distance limitations proposed in § 91.205. In place of those limitations, § 91.205 as adopted herein merely contains a cross reference to the weight limitations for transport category airplanes prescribed in § 91.37.

13. *VFR fuel requirements.* Most of the comments received in response to the VFR fuel requirements proposed in § 91.207 recommended a fuel reserve of 30 minutes at 1,500 feet above ground level (AGL). Although a reserve of 30 minutes for VFR operations is adequate, the computation of that fuel at 1,500 feet AGL may place an undue burden upon the operators. Accordingly, § 91.207 as adopted herein requires a fuel reserve of at least 30 minutes for VFR operations.

14. *Operating in icing conditions.* Most of the commentators recommended that § 91.209 should be changed to permit the pilot of an airplane to have final authority to make the flight if he believes after an evaluation of the available data and other pertinent factors that the flight can be conducted safely.

Under the provisions of that section, as proposed, the pilot may ignore a forecast of icing conditions if the current weather reports and other briefing information indicate that the icing conditions reported in the forecast will not be encountered en route. We believe that further authority for the pilot to ignore reports of icing conditions that may be encountered en route may establish a questionable operating practice.

Some of the commentators felt that the proposal in § 91.209(b)(1) restricting flights into a known or forecast "light" icing condition was unnecessary. We agree and have removed that restriction from the rule as adopted herein.

15. *Flight engineer requirements.* Most of the commentators did not express a recommendation for or against the flight engineer requirement in proposed § 91.211. Some commentators, however, were of the opinion that the rule was unnecessary since the need for a flight engineer on an airplane is determined during its type certification based upon cockpit configuration, pilot workload, and other pertinent factors.

Part 121 requires a flight engineer on certain airplanes certificated before January 2, 1964, with a maximum certificated takeoff weight of more than 80,000 pounds, even though a flight engineer is not required as a part of the type certification of those airplanes. This decision was reached after extensive study and evaluation and is still applicable to those airplanes when operated under Part 121. We are not persuaded that a flight engineer is not needed on those airplanes simply because they are not operated under Part 121. Accordingly, the provisions of § 91.211 are adopted without change.

16. *Second-in-command requirements.* The majority of the comments favored the second-in-command requirements proposed in § 91.213. In view of the change in the applicability of Subpart D, the rule as adopted herein only applies to large airplanes and turbojet-powered multiengine airplanes. In the preamble to the proposed rule we noted that NPRM 71–8A (36 F.R. 11865) would amend Part 61 to include recent experience and other qualifications for the second in command of an airplane type certificated for more than one pilot. We have determined that the second in command, when required by § 1.213, should meet the qualification standards proposed in that NPRM without further delay. Accordingly, § 61.47b as proposed in that notice is redesignated as § 61.46, and adopted herein as an amendment to Part 61. To bring this requirement to the attention of the operators concerned, a new paragraph (b) has been added to § 91.213 requiring a person acting as second in command of any large airplane or turbojet-powered multiengine airplane, type certificated for more than one pilot, to meet the qualifications prescribed in § 61.46 as adopted herein.

The portions of NPRM 71–8A pertaining to the pilot in command proficiency requirements and those requirements pertaining to the second in command of airplanes not subject to Subpart D, require further study and evaluation and no final action will be taken on that portion until the study is completed.

To accommodate those airplanes having only one pilot station, such as former military airplanes certificated for special operations, § 91.213 as adopted permits an airplane having only one pilot station to be operated under an authorization from the Administrator.

Finally, to make it clear that the qualification requirements of the new § 61.46 do not apply to a second in command receiving required flight training, § 61.46 excepts those flights when passengers or cargo are not carried.

17. *Flight-attendant requirements.* The majority of the comments received in response to the notice made no recommendation for or against the flight-attendant provisions in § 91.215. As proposed, that section required each flight attendant to be "familiar" with the functions to be performed and to be "capable" of using the emergency equipment installed on the airplane for the performance of those functions. To insure that each flight attendant meets those requirements, § 91.215, as adopted herein, requires the flight attendant to demonstrate to the pilot in command that he or she meets the requirements for a flight attendant as prescribed in that section.

18. *Inspection program.* As proposed, the inspection program requirements of § 91.217 applied to large airplanes and turbine-powered multiengine airplanes (turbojet and turboprop). In addition, they were also applicable to small turbine-powered multiengine airplanes operated by the holder of an ATCO certificate under Part 135. For the reasons previously stated, there is no change in the applicability of the inspection program requirements.

Most of the comments received generally concurred with the inspection provisions contained in the proposed § 91.217. Supported by individual comments from its members, the NBAA recommended that the rule should provide for the use of a commercially available inspection program based upon the use of a computer. Recognizing that large or turbine-powered multiengine airplanes are complex and for the most part systems oriented, these operators are to a great extent dependent upon the manufacturer's recommendations for a proper inspection program. To facilitate the implementation of these programs, some aircraft manufacturers have developed satisfactory continuous inspection programs utilizing computers that may also be utilized by the aircraft operator in nonaviation areas of his business. The FAA has no objection to such an inspection program and wishes to make it clearly understood that the inspection program can be used under the authority of § 91.217(b)(5) if it is approved by the local FAA District Office.

The NBAA and its members requested deletion of the provision in the proposed § 91.217(a) that requires replacement of life-limited parts specified in the "manufacturers' information" for the airplane concerned. The commentators were of the opinion that the manufacturers' information in regard to replacement of life-limited parts should be considered as a recommendation, but should not be mandatory. The life-limited parts referred to in the proposed rule were intended to be those required by the Administrator. Usually life limits are established during the type certification of a product and either listed in the FAA

type certification data sheet, or product specification that is a part of the type certificate. Sometimes, for the convenience of the operator, the manufacturers' maintenance instructions also list life-limited parts that are made mandatory in the FAA type certification data sheet or product specification. To eliminate any misunderstanding in regard to the replacement of life-limited parts, the language of § 91.217(a) has been changed to require compliance with the replacement times for life-limited parts specified in the aircraft data sheets, or other document approved by the Administrator. The listing of such parts in the manufacturers' maintenance instructions would then be mandatory only if it is so specified in the aircraft data sheets or otherwise approved by the Administrator.

Many of the commentators were of the opinion that after the initial FAA approval of an operator's inspection program, further FAA approval is unnecessary if a change is made in that program which is clearly an accepted inspection and maintenance practice. Although any change in the inspection program requires FAA approval to retain its status as an approved program, additional approval of minor changes are unnecessary if enough flexibility is established in the initial inspection program to accommodate those changes. By obtaining approval for such an inspection program an operator may modify his program within the parameters established in that program without the need of obtaining an additional FAA approval. On the other hand, by the initial approval of such a program the FAA is assured that the modified inspection program will remain sufficient to assure the airworthiness of the airplane.

Some commentators felt that an operator should not be limited to calendar time in the selection of his continuous inspection program. As proposed, § 91.217(e)(2) required a schedule for the performance of inspections expressed in terms of time in service, calendar time, number of systems operations, or any combination of these. We believe the section as proposed clearly allows the operator to choose an inspection schedule controlled by factors other than calendar time and, therefore, no change has been made to that section as adopted herein.

Notwithstanding the choice of inspection programs given to the operator under the proposed § 91.217, some commentators were of the opinion that the FAA should prescribe a uniform inspection program for all operators. Experience indicates that such a program would be impracticable under the broad spectrum of environment in which large or turbine-powered multiengine airplanes are operated today. The cycles of operation, stage lengths, number of landings per period, and even the climatic conditions may be different for each operator. To impose a single inspection program upon all operators, we believe, would place an undue burden upon many operators without enhancing the airworthiness of their airplanes.

The Air Transport Association states that it is unnecessary for an air carrier to notify the FAA of the type of inspection selected for an airplane each time it is used for a training or ferry flight. It is to be noted that air carrier airplanes are required to be inspected in accordance with a continuous airworthiness inspection program approved under Part 121. Therefore, it is not necessary for an air carrier to submit another notice of the inspection program under § 91.217 each time the airplane is used for training or ferry flights unless a different inspection program is used.

The National Transportation Safety Board concurred with the proposed inspection rule, but suggested that the rule should include a "return to service inspection" after a specified period of nonservice. The FAA agrees that when an airplane has been out of service for an extended period of time, an inspection should be performed before it is returned to service. The time and depth of the inspection, however, are dependent upon many variables such as climate, storage area, and type of airplane. An advisory circular will be issued as soon as possible containing information and recommendations for the accomplishment of such inspections under this program or other programs permitted under the regulations. We do not believe it is desirable at this time to make such inspections mandatory until further study is made.

To make it clear that the inspection requirements specified in § 91.217 apply to the emergency equipment including the survival equipment specified in § 91.189, the words "survival equipment" have been added to the items for which an inspection is required in accordance with the inspection program selected by the operator.

The applicability provisions of § 91.181 (a) have been amended to also make it clear that the inspection requirements of § 91.217 apply to small turbine-powered multiengine airplanes operated under Part 135 and to U.S.-registered airplanes even though they are operated by a foreign air carrier under Part 129.

The preamble to NPRM 71-32 stated that for the convenience of the operators of airplanes subject to the rules in Subpart D, other provisions of Part 91 pertaining solely to airplanes subject to Subpart D would be incorporated by reference within the framework of that subpart. Upon further review of the provisions of Part 91, such an incorporation by reference is unnecessary.

In consideration of the foregoing, a new Subpart D to Part 91 and conforming amendments to Parts 43, 61, 91, and 135 of the Federal Aviation Regulations are hereby adopted, to read as set forth herein, effective October 23, 1972.

This rule is adopted under the authority of sections 313(a), 601, 602, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, 1423, 1424, and 1425), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 17, 1972.

J. H. SHAFFER,
Administrator.

Subpart D—Large and Turbine-Powered Multiengine Airplanes

Sec.

AUTHORITY: The provisions of this Subpart D issued under sections 313(a), 601, 602, 603, 604, and 605, of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, 1423, 1424, and 1425), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Subpart D—Large and Turbine-Powered Multiengine Airplanes

§ 91.181 Applicability.

(a) Sections 91.181–91.215 prescribe operating rules, in addition to those prescribed in other subparts of this part, governing the operation of large or turbojet-powered multiengine civil airplanes of U.S. registry. The operating rules in this subpart do not apply to those airplanes when they are required to be operated under the rules in Parts 121, 123, 129, 135, and 137 of this chapter. Sections 91.217 and 91.219 prescribe an inspection program for large and turbine-powered multiengine airplanes (turbojet and turboprop) of U.S. registry when they are operated under this subpart or Parts 129 or 137, and to small turbine-powered multiengine airplanes operated under Part 135 of this chapter.

(b) Operations that may be conducted under the rules in this subpart instead of those in Parts 121, 123, 129, 135, and 137 of this chapter, when common carriage is not involved, include—

(1) Ferry or training flights;

(2) Aerial work operations such as aerial photography or survey, or pipeline patrol, but not including firefighting operations;

(3) Flights for the demonstration of an airplane to prospective customers when no charge is made in excess of the normal operating expenses for the flights, including fuel, oil, hangar and landing fees, and salary of the flightcrew;

(4) Flights conducted by the operator of an airplane for his personal transportation, or the transportation of his guests when no charge, assessment, or fee is made for the transportation in excess of their share of the normal operating expenses for the flight, including fuel, oil, hangar and landing fees, and salary of the flightcrew;

(5) The carriage of company officials, employees, and guests of the company on an airplane operated by that company, when the carriage is within the scope of, and incidental to, the business of the company operating the airplane and no charge, assessment, or fee is made for the carriage, except that a charge that is not in excess of the normal operating expenses for the flight, including fuel, oil, hangar and landing fees, and salary of the flightcrew may be made for the carriage of a company official or employee, when the carriage is not within the scope of, and incidental to, the business of the company operating the airplane;

(6) The carriage of company officials, employees, and guests of the company on an airplane operated under a time sharing, interchange, or joint ownership agreement as defined in paragraph (c) of this section;

(7) The carriage of property (other than mail) on an airplane operated by a person in the furtherance of a business or employment (other than transportation) when the carriage is within the scope of, and incidental to, that business or employment and no charge, assessment, or fee is made for the carriage in excess of the normal operating expenses for the flight, including fuel, oil, hangar and landing fees, and salary of the flightcrew;

(8) The carriage on an airplane of an athletic team, sports group, choral group, or similar group having a common purpose or objective when there is no charge, assessment, or fee of any kind made by any person for that carriage; and

(9) The carriage of persons on an airplane operated by a person in the furtherance of a business (other than transportation) for the purpose of selling to them land, goods, or property, including franchises or distributorships, when the carriage is within the scope of, and incidental to, that business and no charge, assessment, or fee is made for that carriage.

(c) As used in this section—

(1) A "time sharing agreement" means an arrangement whereby a person leases his airplane with flightcrew to another person, and no charge is made for the flights conducted under that arrangement in excess of the normal operating expenses therefor, including fuel, oil, hangar and landing fees, and salary of the flightcrew;

(2) An "interchange agreement" means an arrangement whereby a person leases his airplane to another person in exchange for (i) equal time, when needed, on the other person's airplane, or (ii) a monetary payment that does not exceed the normal operating expenses for the flights conducted under that arrangement, including fuel, oil, hangar and landing fees, and salary of the flight crew; and

(3) A "joint ownership agreement" means an arrangement whereby one of the joint owners of an airplane employs and furnishes the flightcrew for that airplane and each of the joint owners pays a pro rata share of the normal operating expenses of that airplane, including fuel, oil, hangar and landing fees, and salary of the flightcrew.

§ 91.183 Flying equipment and operating information.

(a) The pilot in command of an airplane shall insure that the following flying equipment and aeronautical charts and data, in current and appropriate form, are accessible for each flight at the pilot station of the airplane:

(1) A flashlight having at least two size D cells, or the equivalent, that is in good working order.

(2) A cockpit checklist containing the procedures required by paragraph (b) of this section.

(3) Pertinent aeronautical charts.

(4) For IFR, VFR over-the-top, or night operations, each pertinent navigational en route, terminal area, and approach and letdown chart.

(5) In the case of multiengine airplanes, one-engine inoperative climb performance data.

(b) Each cockpit checklist must contain the following procedures and shall be used by the flight crewmembers when operating the airplane:

(1) Before starting engines.
(2) Before takeoff.
(3) Cruise.
(4) Before landing.
(5) After landing.
(6) Stopping engines.
(7) Emergencies.

(c) Each emergency cockpit checklist procedure required by paragraph (b)(7) of this section must contain the following procedures, as appropriate:

(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.

(2) Emergency operation of instruments and controls.

(3) Engine inoperative procedures.

(4) Any other procedures necessary for safety.

(d) The equipment, charts, and data prescribed in this section shall be used by the pilot in command and other members of the flight crew, when pertinent.

§ 91.185 Familiarity with operating limitations and emergency equipment.

(a) Each pilot in command of an airplane shall, before beginning a flight, familiarize himself with the airplane flight manual for that airplane, if one is required, and with any placards, listings, instrument markings, or any combination thereof, containing each operating limitation prescribed for that airplane by the Administrator, including those specified in § 91.31(b).

(b) Each required member of the crew shall, before beginning a flight, familiarize himself with the emergency equipment installed on the airplane to which he is assigned and with the procedures to be followed for the use of that equipment in an emergency situation.

§ 91.187 Equipment requirements: Over-the-top, or night VFR operations.

No person may operate an airplane over-the-top, or at night under VFR unless that airplane is equipped with the instruments and equipment required for IFR operations under § 91.33(d) and one electric landing light for night operations. Each required instrument and item of equipment must be in operable condition.

§ 91.189 Survival equipment for overwater operations.

(a) No person may take off an airplane for a flight over water more than 50 nautical miles from the nearest shoreline, unless that airplane is equipped with a life preserver or an approved flotation means for each occupant of the airplane.

(b) No person may take off an airplane for a flight over water more than 30 minutes flying time or 100 nautical miles from the nearest shoreline, unless it has on board the following survival equipment:

(1) A life preserver equipped with an approved survivor locator light, for each occupant of the airplane.

(2) Enough liferafts (each equipped with an approved survivor locator light) of a rated capacity and buoyancy to accommodate the occupants of the airplane.

(3) At least one pyrotechnic signaling device for each raft.

(4) One self-buoyant, water-resistant, portable emergency radio signaling device, that is capable of transmission on the appropriate emergency frequency or frequencies, and not dependent upon the airplane power supply.

(c) The required liferafts, life preservers, and signaling devices must be installed in conspicuously marked locations and easily accessible in the event of a ditching without appreciable time for preparatory procedures.

(d) A survival kit, appropriately equipped for the route to be flown, must be attached to each required liferaft.

§ 91.191 Radio equipment for overwater operations.

(a) Except as provided in paragraph (c) of this section, no person may takeoff an airplane for a flight over water more than 30 minutes flying time or 100 nautical miles from the nearest shoreline, unless it has at least the following operable radio communication and navigational equipment appropriate to the facilities to be used and able to transmit to, and receive from, at any place on the route, at least one surface facility:

(1) Two transmitters.

(2) Two microphones.

(3) Two headsets or one headset and one speaker.

(4) Two independent receivers for navigation.

(5) Two independent receivers for communications.

However, a receiver that can receive both communications and navigational signals may be used in place of a separate communications receiver and a separate navigational signal receiver.

(b) For the purposes of paragraphs (a) (4) and (5) of this section, a receiver is independent if the function of any part of it does not depend on the functioning of any part of another receiver.

(c) Notwithstanding the provisions of paragraph (a) of this section, a person may operate an airplane on which no passengers are carried from a place where repairs or replacement cannot be made to a place where they can be made, if not more than one of each of the dual items of radio communication and navigation equipment specified in subparagraphs (1)–(5) of paragraph (a) of this section malfunctions or becomes inoperative.

§ 91.193 Emergency equipment.

(a) No person may operate an airplane unless it is equipped with the emergency equipment listed in this section:

(b) Each item of equipment—

(1) Must be inspected in accordance with § 91.217 to insure its continued serviceability and immediate readiness for its intended purposes;

(2) Must be readily accessible to the crew;

(3) Must clearly indicate its method of operation; and

(4) When carried in a compartment or container, must have that compartment or container marked as to contents and date of last inspection.

(c) Hand fire extinguishers must be provided for use in crew, passenger, and cargo compartments in accordance with the following:

(1) The type and quantity of extinguishing agent must be suitable for the kinds of fires likely to occur in the compartment where the extinguisher is intended to be used.

(2) At least one hand fire extinguisher must be provided and located on or near the flight deck in a place that is readily accessible to the flight crew.

(3) At least one hand fire extinguisher must be conveniently located in the passenger compartment of each airplane accommodating more than six but less than 31 passengers, and at least two hand fire extinguishers must be conveniently located in the passenger compartment of each airplane accommodating more than 30 passengers.

(d) First aid kits for treatment of injuries likely to occur in flight or in minor accidents must be provided.

(e) Each airplane accommodating more than 19 passengers must be equipped with a crash ax.

(f) Each passenger-carrying airplane must have a portable battery-powered megaphone or megaphones readily accessible to the crewmembers assigned to direct emergency evacuation, installed as follows:

(1) One megaphone on each airplane with a seating capacity of more than 60 but less than 100 passengers, at the most rearward location in the passenger cabin where it would be readily accessible to a normal flight attendant seat. However, the Administrator may grant a deviation from the requirements of this subparagraph if he finds that a different location would be more useful for evacuation of persons during an emergency.

(2) Two megaphones in the passenger cabin on each airplane with a seating capacity of more than 99 passengers, one installed at the forward end and the other at the most rearward location where it would be readily accessible to a normal flight attendant seat.

§ 91.195 Flight altitude rules.

(a) Notwithstanding § 91.79, and except as provided in paragraph (b) of this section, no person may operate an airplane under VFR at less than—

(1) One thousand feet above the surface, or 1,000 feet from any mountain, hill, or other obstruction to flight, for day operations; and

(2) The altitudes prescribed in § 91.119, for night operations.

(b) This section does not apply—

(1) During takeoff or landing;

(2) When a different altitude is authorized by a waiver to this section under § 91.63; or

(3) When a flight is conducted under the special VFR weather minimums of § 91.107 with an appropriate clearance from ATC.

§ 91.197 Smoking and safety belt signs.

(a) Except as provided in paragraph (b) of this section, no person may operate an airplane carrying passengers unless it is equipped with signs that are visible to passengers and cabin attendants to notify them when smoking is prohibited and when safety belts should be fastened. The signs must be so constructed that the crew can turn them on and off. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(b) The pilot in command of an airplane that is not equipped as provided in paragraph (a) of this section shall insure that the passengers are orally notified each time that it is necessary to fasten their safety belts and when smoking is prohibited.

§ 91.199 Passenger briefing.

(a) Before each takeoff the pilot in command of an airplane carrying passengers shall ensure that all passengers have been orally briefed on:

(1) Smoking;

(2) Use of safety belts;

(3) Location and means for opening the passenger entry door and emergency exits;

(4) Location of survival equipment;

(5) Ditching procedures and the use of flotation equipment required under § 91.189 for a flight over water; and

(6) The normal and emergency use of oxygen equipment installed on the airplane.

(b) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a member of the crew, but need not be given when the pilot in command determines that the passengers are familiar with the contents of the briefing. It may be supplemented by printed cards for the use of each passenger containing—

(1) A diagram of, and methods of operating, the emergency exits; and

(2) Other instructions necessary for use of emergency equipment.

Each card used under this paragraph must be carried in convenient locations on the airplane for use of each passenger and must contain information that is pertinent only to the type and model airplane on which it is used.

§ 91.201 Carry-on-baggage.

No pilot in command of an airplane having a seating capacity of more than 19 passengers may permit a passenger to stow his baggage aboard that airplane except—

(a) In a suitable baggage or cargo storage compartment, or as provided in § 91.203; or

(b) Under a passenger seat in such a way that it will not slide forward under crash impacts severe enough to induce the ultimate inertia forces specified in § 25.561(b)(3) of this chapter, or the requirements of the regulations under which the airplane was type certificated.

§ 91.203 Carriage of cargo.

(a) No pilot in command may permit cargo to be carried in any airplane unless—

(1) It is carried in an approved cargo rack, bin, or compartment installed in the airplane;

(2) It is secured by means approved by the Administrator; or

(3) It is carried in accordance with each of the following:

(i) It is properly secured by a safety belt or other tiedown having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.

(ii) It is packaged or covered to avoid possible injury to passengers.

(iii) It does not impose any load on seats or on the floor structure that exceeds the load limitation for those components.

(iv) It is not located in a position that restricts the access to or use of any required emergency or regular exit, or the use of the aisle between the crew and the passenger compartment.

(v) It is not carried directly above seated passengers.

(b) When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded so as to allow a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

§ 91.205 Transport category airplane weight limitations.

No person may take off a transport category airplane, except in accordance

with the weight limitations prescribed for that airplane in § 91.37.

§ 91.207 VFR fuel requirements.

No pilot may begin a flight in an airplane under VFR unless, considering wind and forecast weather conditions, it has enough fuel to fly to the first point of intended landing and, assuming normal cruising fuel consumption, to fly thereafter for at least 30 minutes.

§ 91.209 Operating in icing conditions.

(a) No pilot may take off an airplane that has—

(1) Frost, snow, or ice adhering to any propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing or control surfaces; or

(3) Any frost adhering to the wings, or stabilizing or control surfaces, unless that frost has been polished to make it smooth.

(b) Except for an airplane that has ice protection provisions that meet the requirements in section 34 of Special Federal Aviation Regulation No. 23, or those for transport category airplane type certification, no pilot may fly—

(1) Under IFR into known or forecast moderate icing conditions; or

(2) Under VFR into known light or moderate icing conditions; unless the aircraft has functioning de-icing or anti-icing equipment protecting each propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter, rate of climb, or flight attitude instrument system.

(c) Except for an airplane that has ice protection provisions that meet the requirements in section 34 of Special Federal Aviation Regulation No. 23, or those for transport category airplane type certification, no pilot may fly an airplane into known or forecast severe icing conditions.

(d) If current weather reports and briefing information relied upon by the pilot in command indicate that the forecast icing conditions that would otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraphs (b) and (c) of this section based on forecast conditions do not apply.

§ 91.211 Flight engineer requirements.

(a) No person may operate the following airplanes without a flight crewmember holding a current flight engineer certificate:

(1) An airplane for which a type certificate was issued before January 2, 1964, having a maximum certificated takeoff weight of more than 80,000 pounds.

(2) An airplane type certificated after January 1, 1964, for which a flight engineer is required by the type certification requirements.

(b) No person may serve as a required flight engineer on an airplane unless, within the preceding 6 calendar months, he has had at least 50 hours of flight time as a flight engineer on that type airplane, or the Administrator has checked him on that type airplane and determined that he is familiar and competent with all essential current information and operating procedures.

§ 91.213 Second in command requirements.

(a) Except as provided in paragraph (b) of this section, after January 22, 1973, no person may operate the following airplanes without a pilot who is designated as second in command of that airplane:

(1) A large airplane.

(2) A turbojet-powered multiengine airplane for which two pilots are required under the type certification requirements for that airplane.

(b) The Administrator may issue a letter of authorization for the operation of an airplane without compliance with the requirements of paragraph (a) of this section if that airplane is designed for and type certificated with only one pilot station. The authorization contains any conditions that the Administrator finds necessary for safe operation.

(c) After January 22, 1973, no person may designate a pilot to serve as second in command nor may any pilot serve as second in command of an airplane requiring two pilots under its type certification requirements, unless that pilot meets the qualifications for a second in command prescribed in § 61.46 of this chapter.

§ 91.215 Flight-attendant requirements.

(a) No person may operate an airplane unless at least the following number of flight attendants are on board the airplane:

(1) For airplanes having more than 19 but less than 51 passengers on board—one flight attendant.

(2) For airplanes having more than 50 but less than 101 passengers on board—two flight attendants.

(3) For airplanes having more than 100 passengers on board—two flight attendants plus one additional flight attendant for each unit (or part of a unit) of 50 passengers above 100.

(b) No person may serve as a flight attendant on an airplane when required by paragraph (a) of this section, unless that person has demonstrated to the pilot in command that he is familiar with the necessary functions to be performed in an emergency or a situation requiring emergency evacuation and is capable of using the emergency equipment installed on that airplane for the performance of those functions.

§ 91.217 Inspection program.

(a) No person may operate a large airplane, or a turbojet- or turbopropeller-powered multiengine airplane, unless the replacement times for life-limited parts specified in the aircraft data sheets or other documents approved by the Administrator are complied with, and after January 22, 1973, the airplane, including the airframe, engines, propellers, appliances, survival equipment, and emergency equipment is inspected in accordance with an inspection program selected under the provisions of this section.

(b) The registered owner or operator of each airplane governed by this subpart must select and after January 22, 1973, must use one of the following programs for the inspection of that airplane:

(1) A continuous airworthiness inspection program that is a part of a continuous airworthiness maintenance program currently in use by a person holding an air carrier or commercial operator certificate under Part 121 of this chapter.

(2) An approved aircraft inspection program currently in use by a person holding an ATCO certificate under Part 135 of this chapter.

(3) An approved continuous inspection program currently in use by a person certificated as an Air Travel Club under Part 123 of this chapter.

(4) A current inspection program recommended by the manufacturer.

(5) Any other inspection program established by the registered owner or operator of that airplane and approved by the Administrator under paragraph (e) of this section.

(c) Notice of the inspection program selected shall be sent to the local FAA District Office having jurisdiction over the area in which the airplane is based. The notice must be in writing and include—

(1) Make, model, and serial number of the airplane;

(2) Registration number of the airplane;

(3) The inspection program selected under paragraph (b) of this section; and

(4) The name and address of the person responsible for scheduling the inspections required under the selected inspection program.

(d) The registered owner or operator may not change the inspection program for an airplane unless he has given notice thereof as provided in paragraph (c) of this section and the new program has been approved by the FAA, where appropriate.

(e) Each registered owner or operator of an airplane desiring to establish an approved inspection program under paragraph (b)(5) of this section must submit the program for approval to the local FAA District Office having jurisdiction over the area in which the airplane is based. The program must include the following information:

(1) Instructions and procedures for the conduct of inspections for the particular make and model airplane, including necessary tests and checks. The instructions and procedures must set forth in detail the parts and areas of the airframe, engines, propellers, and appliances, including emergency equipment required to be inspected.

(2) A schedule for the performance of the inspections that must be performed under the program expressed in terms of the time in service, calendar time,

number of system operations, or any combination of these.

§ 91.219 Availability of inspection program.

Each owner or operator of an airplane shall make a copy of the inspection program selected under § 91.217 available to—

(a) The person responsible for the scheduling of the inspections;

(b) Any person performing inspections on the airplane; and

(c) Upon request, to the Administrator.

The following amendments to Parts 43, 61, 91, and 135 of the Federal Aviation Regulations are adopted to make those parts conform with Subpart D.

1. Part 43 of the Federal Aviation Regulations is amended by adding a new subparagraph (5) to § 43.9(a) to read as follows:

§ 43.9 Content, form, and disposition of maintenance, rebuilding, and alteration records (except 100-hour, annual, and progressive inspections).

(a) *Maintenance records entries.* * * *

(5) If the work performed is an inspection required under § 91.217 of this chapter for a large airplane, or a turbojet- or turbopropeller-powered multiengine airplane, the entry must name the kind of inspection conducted (continuous airworthiness inspection program, approved inspection program, etc.) and include a statement that—

(i) The inspection was performed in accordance with the instructions and procedures for the kind of inspection program selected by the owner or operator of the airplane; and

(ii) A signed and dated list of the defects, if any, found during the inspection was given to the owner or operator of the airplane.

* * * * *

2. Part 43 of the Federal Aviation Regulations is amended by adding a new paragraph (d) to § 43.13 to read as follows:

§ 43.13 Performance rules (general).

* * * * *

(d) Each person performing an inspection required by § 91.217 for a large airplane, or a turbojet- or turbopropeller-powered multiengine airplane shall do that work in accordance with the standards prescribed in subparagraphs (1) through (5) of this paragraph for the applicable inspection program.

(1) For a continuous airworthiness inspection program (§ 91.217(b)(1) of this chapter), the standards prescribed in paragraph (c) of this section apply.

(2) For an approved aircraft inspection program (§ 91.217(b)(2) of this chapter), the standards prescribed in paragraph (a) of this section apply.

(3) For an approved continuous inspection program (§ 91.217(b)(3) of this chapter), the standards prescribed in § 43.15(a) of this part apply.

(4) For an inspection program recommended by a manufacturer (§ 91.217(b)(4) of this chapter), the standards contained in the recommendations and instructions of the aircraft, engine, propeller, or appliance manufacturer apply.

(5) For an approved inspection program (§ 91.217(b)(5) of this chapter), the standards prescribed in paragraph (a) of this section apply, except when the inspection program for the particular airplane includes other standards.

3. Part 61 of the Federal Aviation Regulations is amended by adding a new § 61.46 to read as follows:

§ 61.46 Second-in-command qualifications: Operations of large airplanes or turbojet-powered multiengine airplanes.

(a) Except as provided in paragraph (d) of this section, after January 22, 1973, no person may serve as second in command of a large airplane or a turbojet-powered multiengine airplane, type certificated for more than one required pilot flight crewmember, unless he holds—

(1) At least a current private pilot certificate with appropriate category and class ratings; and

(2) An appropriate instrument rating in the case of flight under IFR.

(b) Except as provided in paragraph (d) of this section, after January 22, 1973, no person may serve as second in command of a large airplane or a turbojet-powered multiengine airplane, type certificated for more than one required pilot flight crewmember, unless since the beginning of the 12th calendar month before the month in which he serves, he has, with respect to that type airplane:

(1) Familiarized himself with all information concerning the airplane's powerplant, major components and systems, major appliances, performance and limitations, standard and emergency operating procedures, and the contents of the approved airplane flight manual, if one is required.

(2) Performed and logged—

(i) Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls; and

(ii) Engine-out procedures and maneuvering with an engine out while executing the duties of a pilot in command. This requirement may be satisfied in an airplane simulator acceptable to the Administrator.

For the purpose of meeting the requirements of subparagraph (2) of this paragraph, a person may act as second in command of a flight under day VFR or day IFR, if no persons or property, other than as necessary for the operation, are carried.

(c) If a pilot complies with the requirements in paragraph (b) of this section in the calendar month before, or the calendar month after, the month in which compliance with those requirements is due, he is considered to have complied with them in the month they are due.

(d) This section does not apply to a pilot who—

(1) Meets the pilot in command proficiency check requirements of Part 121, 123, or 135 of this chapter;

(2) Is designated as the second in command of an airplane operated under the provisions of Part 121, 123, or 135 of this chapter; or

(3) Is designated as the second in command of an airplane for the purpose of receiving flight training required by this section and no passengers or cargo are carried on that airplane.

§ 91.1 [Amended]

4. Part 91 of the Federal Aviation Regulations is amended by changing the words "Subparts A and C of this part," as they appear in § 91.1(b)(3), to read "Subparts A, C, and D of this part."

§ 91.165 [Amended]

5. Part 91 of the Federal Aviation Regulations is amended by changing the words "§§ 91.169 and 91.170," appearing in § 91.165, to read "Subpart D or § 91.169 of this part, as appropriate, and § 91.170 of this part."

6. Part 91 of the Federal Aviation Regulations is amended by adding a new subparagraph (5) to § 91.169(c) to read as follows:

§ 91.169 Inspections.

* * * * *

(c) * * *

(5) Any large airplane, or a turbojet- or turbopropeller-powered multiengine airplane, that is inspected in accordance with an inspection program authorized under Subpart D of this part.

§ 135.60 [Amended]

7. Part 135 of the Federal Aviation Regulations is amended by changing the words "§ 91.169 or § 91.171," appearing in paragraph (a) of § 135.60 to read "Part 91."

[FR Doc.72-11424 Filed 7-24-72;8:49 am]

[Airspace Docket No. 72-SW-14]

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

Alteration of Transition Area

On June 23, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 12400) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter Control 1215 and the Texas transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., September 14, 1972, as hereinafter set forth.

a. In § 71.163 (37 F.R. 2048) Control 1215 is amended to read:

CONTROL 1215

That airspace south of Galveston, Tex., bounded by a line beginning at lat. 29°19'00" N., long. 94°40'30" W., thence to lat. 28°-15'00" N., long. 92°07'00" W., to lat. 28°-

15'00'' N., long. 94°00'00'' W., to lat. 27°32'-00'' N., long. 95°09'00'' W., to lat. 26°00'00'' N., long. 95°55'00'' W., to lat. 26°00'00'' N., long. 97°00'00'' W., to lat. 25°58'30'' N., long. 97°05'20'' W., thence northward 3 NMI from and parallel to the shoreline to point of beginning; excluding that airspace east of Corpus Christi, Tex., bounded by a line 3 NMI from and parallel to the shoreline and a line beginning at a point 3 NMI from the shoreline at lat. 27°49'00'' N., thence to lat. 27°45'30'' N., long. 96°51'00'' W., to lat. 27°-28'20'' N., long. 96°45'30'' W., to lat. 27°14'-30'' N., long. 96°55'30'' W., to lat. 27°23'00'' N., long. 97°06'00'' W., to a point 3 NMI from the shoreline at lat. 27°11'20'' N. The portion below 2500 feet MSL would be excluded.

b. In § 71.181 (37 F.R. 2143) the Texas transition area is amended by deleting "excluding that airspace in the vicinity of Matagorda Island south and east of a line beginning at a point 3 nautical miles from the shoreline at latitude 28°22'00'' N., thence to latitude 28°22'00'' N., longitude 96°30'00'' W., to latitude 28°14'00'' N., longitude 96°46'00'' W., thence along longitude 96°46'00'' W., to a point 3 nautical miles from the shoreline, and".

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 20, 1972.

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

[FR Doc.72-11505 Filed 7-24-72;8:55 am]

[Airspace Docket No. 72-RM-14]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to alter the "Time of designation" of R-6413, Green River, Utah.

A rule was published in the FEDERAL REGISTER on April 22, 1972 (37 F.R. 7969), extending the effective period of R-6413 from June 30 to July 31, 1972. Due to a further extension of the firing period for the Pershing missile from R-6413, Green River, Utah, the Department of the Air Force has requested the effective period be extended to November 30, 1972.

In the notice of proposed rule making published in the FEDERAL REGISTER (36 F.R. 1911) of February 3, 1971, Airspace Docket No. 70-WE-93, it was stated that: "Each successive period would be designated by rule published in the FEDERAL REGISTER"; therefore, further notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon publication as hereinafter set forth.

In § 73.64 (37 F.R. 2373, 437, 7969) the Green River, Utah, Restricted Area R-6413, is amended as follows:

In the Time of Designation, "July 31, 1972," is deleted and "November 30, 1972," is substituted therefor.

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

Issued in Washington, D.C., on July 20, 1972.

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

[FR Doc.72-11506 Filed 7-24-72;8:56 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

CHLORDIMEFORM; CORRECTION

In F.R. Doc. 72-9569 appearing on page 12491 in the FEDERAL REGISTER of June 24, 1972, the section number is changed from "§ 121.388" to "§ 121.338."

Dated: July 19, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-11442 Filed 7-24-72;8:50 am]

SUBCHAPTER C—DRUGS

CHLORAMPHENICOL - PREDNISOLONE - TETRACAINE - SQUALANE TOPICAL SUSPENSION, VETERINARY

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (55-005V) filed by EVSCO Pharmaceutical Corp., 3345 Royal Ave., Oceanside, N.Y. 11572, proposing additional safe and effective uses of a combination drug containing chloramphenicol, prednisolone, tetracaine, and squalane for the treatment of dogs and cats. The supplemental application is approved.

Since the drug is subject to batch certification under the provisions of section 512(n) of the Federal Food, Drug, and Cosmetic Act, this order amends the antibiotic drug regulations and new animal drug regulations. For consistency, the name and address of the sponsor is deleted from the affected regulation and the sponsor is identified by the code number assigned to it in § 135.501(c).

Therefore, pursuant to provisions of the act (secs. 512 (i), (n), 82 Stat. 347, 345-51; 21 U.S.C. 360b (i), (n)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135a, 141d, and 146d are amended as follows:

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

1. Section 135a.3 is amended by revising paragraph (b) and the first sentence of paragraph (c) to read as follows:

§ 135a.3 Chloramphenicol-prednisolone-tetracaine-squalane suspension.

* * * * *

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

(c) *Conditions of use.* It is used in the treatment of acute otitis externa and pyodermas (acute moist dermatitis, vulvar fold dermatitis, lip fold dermatitis, interdigital dermatitis, and juvenile dematitis) in dogs and cats. Laboratory tests should be conducted, including *in-vitro* culturing and susceptibility tests on samples collected prior to treatment. * * *

PART 141d—CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

2. Part 141d is amended in § 141d.319 by revising the section heading to read as follows:

§ 141d.319 Chloramphenicol-prednisolone-tetracaine-squalane topical suspension, veterinary.

* * * * *

PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS

3. Part 146d is amended in § 146d.319 by revising the section heading to read as follows:

§ 146d.319 Chloramphenicol-prednisolone-tetracaine-squalane topical suspension, veterinary.

* * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (7-25-72).

(Secs. 512 (i), (n), 82 Stat. 347, 345-51; 21 U.S.C. 360b (i), (n))

Dated: July 18, 1972.

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

[FR Doc.72-11384 Filed 7-24-72;8:45 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

[Docket No. R-72-179]

PART 43—PROVISION OF REPLACEMENT HOUSING UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Subpart A—Last Resort Housing Replacement by Displacing Agency

Subpart B—Loans for Planning and Preliminary Expenses—Relocation

SEED-MONEY LOANS

The purpose of these criteria and procedures is to prescribe, for all Federal

and State agencies that cause residential displacement in the administration of direct Federal or federally assisted projects, the criteria and procedures for the implementation of section 215 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646).

On April 15, 1972 (37 F.R. 7520), the Department first published these criteria and procedures for public comment as a notice of proposed rule making. The notice of proposed rule making proposed that the present criteria and procedures pertaining to last-resort housing replacement by a displacing agency be redesignated as Subpart A of Part 43, and that a new Subpart B contain the criteria and procedures governing relocation "seed-money" loans. The Department has now considered the comments received and promulgates these final criteria and procedures to be effective upon publication in the FEDERAL REGISTER. Principal changes and the Department's response to significant comments are set forth below.

The suggestion that limited dividend sponsors not be eligible for relocation seed-money loans cannot be accepted. As the statute expressly includes limited dividend sponsors as eligible recipients of section 215 seed-money loans, there is no basis for their exclusion. While there does not appear to be legal authority for granting an absolute preference to nonprofit organizations, a sentence has been added to § 43.32(d) providing for displacing agencies to make a special effort to encourage and assist community groups and other nonprofit organizations to become sponsors.

To clarify the fact that only limited-dividend sponsors, not other profitmaking organizations, are eligible for the seed-money loans, the phrase, "limited dividend sponsor" has been used wherever terms such as "organization established for profit" appeared in the previously published notice of proposed rule making. (See §§ 43.31(b)(1), 43.31(d), and 43.34(c). The definition of "limited dividend sponsor" is set forth in § 43.28 (b).)

In the preamble to the notice of proposed rule making, the Department indicated that it was considering revising the terms and conditions for loans to include an additional requirement that a loan to a limited dividend sponsor be secured by the personal guaranty of the sponsor's principals. One of the two organizations from whom comments were received opposed this revision on the ground that it might serve to deter rather than facilitate the development of critically needed replacement housing. Experience under the Appalachian Housing Assistance program (section 207 of the Appalachian legislation) has not demonstrated that the imposition of such a requirement has been detrimental to the production of necessary housing. The Department has concluded that the requirement should be imposed as an additional safeguard of Federal funds, and to assure continuity of sponsor interest. Therefore, § 43.31 has been amended by adding a sentence to subparagraph (a) and a new subparagraph (7) to § 43.31(e) requiring that a loan to a limited-dividend sponsor must be secured by the personal guaranty of the principals.

No change is made in § 43.32(a), which permits the planning of projects of more units than specifically required as relocation resources, where the number of required units is not enough to constitute an economically feasible project. The alternatives—either not approving seed-money loans where the required units are too few for economic feasibility or not requiring economic feasibility—are both unacceptable. The first would not provide the needed housing; the latter, in addition to being contrary to established Federal policy, would be no more than a short-term solution, because in the long run an economically infeasible project will go into default, thus depriving the displaced persons of their replacement housing. Such flexibility does not, however, permit the sponsors to make use of seed-money loans while providing little actual replacement housing for displacees. Preference for occupancy by those displaced is a condition of the section 215 loan contract. Section 43.32(a) and subparagraph "f" of the Guide Form of Loan Contract and Trust Agreement have been clarified to require the sponsor to withhold approval of applications for occupancy of the housing by persons other than those displaced, until the sponsor has received formal notice from the displacing agency that all displaced persons desiring occupancy have exercised their options to file an application for occupancy.

The suggestion that the several low-rent public housing programs be added to the list of housing programs set forth in § 43.36 cannot be adopted. Public Law 91–646 specifies that relocation seed money loans are "for planning and obtaining federally insured mortgage financing." None of the various programs of low-rent public housing can be construed as a "federally insured mortgage financing" program.

It was suggested that the definition of "federally assisted project" be revised to include insured, guaranteed, and rehabilitated projects. The term cannot be expanded beyond the definition of "Federal financial assistance" set forth in the Act, which explicitly excludes any Federal guarantee or insurance assistance.

The provisions of §43.32(c) have been revised to emphasize that duplicate relocation planning is not necessary for the purpose of determining whether a section 215 loan may be needed for the development of replacement housing. The relocation plan, updated where necessary, should be used as the basis for this determination.

It was asserted in the comments received that the use of section 215 seed money loans is mandatory. Section 215 is not mandatory, but merely affords displacing agencies an additional tool to facilitate the provision of replacement housing necessary for the project to go forward, and to meet the housing needs and preferences of those to be displaced.

The comment that the last sentence of § 43.38(e) was unnecessary and misleading appears based on the assumption that the Act is applicable to any displacement caused by the development of housing planned by a section 215 loan. HUD's General Counsel has advised that the mere fact that a seed money loan to plan replacement housing comes from the funds of a Federal or federally assisted project may not, in and of itself, make the Act applicable to any displacement caused by the development of such housing. For this reason, the last sentence of § 43.38(e) provides that each Federal agency shall determine in light of each of its programs the eligibility for relocation payments and assistance under the Act of those displaced by the development of housing planned with section 215 loan funds. In any case, however, this section clearly prohibits the placing of housing planned with a section 215 seed money loan in any location requiring displacement that is not covered by the Act. Thus, if the use in a given program of a seed money loan under section 215 is not sufficient to invoke the Act, and the Act is not otherwise applicable, any housing planned with that loan may not be located so as to cause displacement.

The suggestion that the Project Selection Criteria be waived in the case of housing planned with a loan under section 215 appears based on the widespread misapprehension that meeting relocation needs is necessarily inconsistent with meeting the Selection Criteria. First, the criteria do not apply to all HUD mortgage insurance programs, but only to projects insured under sections 235(i) and 236, and projects involving Federal rent supplements. Moreover, when properly applied, the criteria are flexible enough not to be an obstacle to providing needed replacement housing. HUD has stated on numerous occasions that the criteria were never intended to preclude the construction of assisted housing in inner city areas. In addition, HUD's General Counsel has advised all regional and area counsel as follows:

> Section 206(b) of the Uniform Relocation Act of 1970 requires that no one be required to move from his dwelling * * * unless the [displacing] agency head is satisfied that there exists replacement housing in accordance with section 205(c)(3) of that Act. Section 205(c)(3) requires * * * that replacement housing for [displaced] persons be "reasonably accessible to their place of employment." * * * When the only available sites * * * [reasonably accessible] to displacees' places of employment are in areas of minority concentration, their housing needs cannot feasibly be met except in those areas of minority concentration. Hence, in such cases, proposals for 206(b) purposes may receive an "adequate" rating under Criterion No. 2(B)(3).
>
> It is important to note that situations of this kind arise only under the limited circumstances where reasonable accessibility to jobs of specific persons displaced from specific dwelling is a limiting factor. Naturally, the reasons for use of Criterion No. 2(B)(3) in this manner should be well documented.

In short, there is no inherent conflict between the criteria and the provision of relocation housing. If a particular replacement housing proposal is rejected

under the criteria, sponsors are free to seek a reconsideration to insure that the rejection was not based on a misapplication of the selection requirements. Neither a waiver of the criteria, nor the giving of a higher priority to relocation needs in applying the criteria is warranted.

The suggestion that affected residents be able to seek review of a determination that a particular potential sponsor is not eligible for a section 215 loan is unnecessary, since each potential sponsor found ineligible can seek such review itself (see § 43.35).

Two changes have been made in response to comments on involving the displaced persons who will occupy any housing planned with a seed money loan. Section 43.32(d) has been amended to require special efforts to find community groups and other nonprofit housing sponsors. A sentence has also been added to § 43.32(e) providing that in the selection of housing sponsors to receive seed money loans, substantial weight should be given to, among other factors, the degree to which the applicant sponsor has roots in the affected community or neighborhood, and the extent of involvement and participation by affected residents in the planning of the replacement housing.

Some of the other suggestions concerning resident involvement, however, appear to misconceive the role of HUD in the application process for section 215 loans. HUD is not the lending agency. Its role is only a secondary one as a source of technical assistance, since it is principally HUD's mortgage insurance program for which planning is undertaken with seed money loans. Therefore, resident involvement with HUD in the technical aspects of the section 215 loan application process is not likely to contribute to the protection of citizen interests. (Citizen involvement in the case of HUD-assisted programs, of course, is a different matter, since HUD is also the funding agency for the displacing project. Such cases will be covered in HUD's own procedures, rather than in these criteria and procedures which apply to all Federal and federally assisted displacement covered by the Act.)

Accordingly, Part 43 is amended as follows:

1. The title of Part 43 is revised to read as set forth above.

2. The Table of Contents is amended by inserting before the listing of sections and headings in the present table a new center heading "Subpart A—Last Resort Housing Replacement by Displacing Agency," and adding a new Table of Contents for Subpart B.

3. A new Subpart B title is added to read as follows:

Subpart B—Loans for Planning and Preliminary Expenses—Relocation Seed-Money Loans

AUTHORITY: The provisions of this Subpart B issued under secs. 206, 213, and 215, 84 Stat. 1898, 1900, 1901; 42 U.S.C. 4626, 4633, 4635. (Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d))

Subpart B—Loans for Planning and Preliminary Expenses—Relocation

§ 43.25 Purpose.

It is the purpose of this subpart to set forth criteria and procedures for the implementation of section 215 of the Act. The procedures in this issuance shall be applied and administered by all Federal agencies so as to encourage and facilitate the rehabilitation and construction of suitable standard housing to meet the needs of displaced persons.

§ 43.26 Legislative authority.

Section 215 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), hereinafter referred to as the Act, authorizes the provision of loans for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing to meet the needs of persons displaced by Federal projects and federally assisted projects. Such a loan may be made as part of the cost of a project which causes displacement if it is approved by the head of the Federal agency administering the project or the Federal agency providing financial assistance for the project.

§ 43.27 Applicability to Federal agencies.

Pursuant to paragraph 6 of the President's memorandum of January 4, 1971, to the heads of departments and agencies concerning the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, these criteria and procedures are applicable to all Federal agencies administering Federal projects or providing Federal financial assistance to State agencies carrying out activities that cause displacement of persons from their dwellings.

§ 43.28 Definitions.

In addition to the definitions contained in § 43.4 of Subpart A, of this part, the following definitions apply to this subpart:

(a) A nonprofit sponsor is a corporation or association organized for purposes other than the making of profit or gain for itself or persons identified with it, and which is in no manner controlled by nor under the direction of persons of firms seeking to derive profit or gain from it. The term "nonprofit sponsor" also includes a "cooperative sponsor" as defined in paragraph (c) of this section.

(b) A limited dividend sponsor is a corporation, trust, partnership, individual, association, or other legal entity (including such special limited dividend sponsors as are eligible for mortgage insurance under HUD regulations) which is restricted by law or other regulations as to the distribution of income and rate of return on investment.

(c) A cooperative sponsor is: (1) A nonprofit cooperative ownership housing corporation or trust which restricts permanent occupancy of the housing units to members of the corporation or trust and which maintains requirements for membership eligibility and transfers of membership; or (2) a nonprofit organization which agrees to use the proceeds of a loan received under section 215 for the expenses of planning and obtaining an insured mortgage for housing to be owned by a cooperative as described in subparagraph (1) of this paragraph.

(d) A public body sponsor is a public corporation or entity which is a Federal instrumentality, a State or political subdivision thereof, or an instrumentality of a State or of a political subdivision thereof, eligible to sponsor federally insured housing.

(e) "Condominium" means a combination of coownership and ownership in severalty. It is an arrangement under which a family or individual in a housing development holds full title to a one-family dwelling unit, including an undivided interest in common areas and facilities, and such restricted common areas and facilities as may be designated.

§ 43.29 Eligible applicants.

Any nonprofit, limited dividend, cooperative, or public corporation or entity, eligible to sponsor housing insured under the National Housing Act or Title V of the Housing Act of 1949, may apply for a section 215 loan.

§ 43.30 Eligible expenses.

Section 215 loans shall not exceed 80 percent of the allowed expense required for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for persons displaced. Eligible expenses include but are not limited to:

(a) Preliminary surveys and analysis in implementation of site selection criteria;

(b) Preliminary site engineering;

(c) Preliminary architectural fees;

(d) Title and recording fees;

(e) Application and mortgage commitment fees;

(f) Construction loan fees and/or discounts;

(g) Legal and organizational expenses;

(h) Consultant fees (nonprofit sponsor);

(i) Land options and site acquisition costs;

(j) Staff, office expenses, travel.

§ 43.31 Terms and conditions for loans.

(a) *General.* No section 215 loan shall exceed 80 percent of the reasonable and eligible expenses expected to be incurred in planning and obtaining federally insured mortgage financing, and which are expected to be recovered from the proceeds of the insured mortgage. Loans made to limited dividend sponsors must be secured by the personal guaranties of the principals.

(b) *Interest rate.* (1) A loan to a limited-dividend sponsor shall bear interest at the current market rate as determined by the head of the Federal displacing of funding agency, as applicable. In the interest of uniformity, the head of the appropriate agency shall be guided by the interest rate established by the Secretary of Housing and Urban Development pursuant to section 236 of the National Housing Act, as amended. Information on the current rate applicable to this section is available from all HUD Area and Insuring Offices. (2) A loan to an eligible nonprofit, cooperative, or public body sponsor shall be without interest.

(c) *Loan disbursement.* (1) The head of the displacing agency shall disburse the section 215 loan in accordance with the terms of the loan agreement. Ordinarily, a requisition for advance of funds to cover cash needs for each succeeding month following the initial disbursement, should be submitted by the sponsor. (2) Before approving the request for funds for the succeeding month, the displacing agency must determine that the development of an application for a commitment is progressing satisfactorily, and that funds advanced are being used for the purpose for which the loan was made. (3) At the time of receipt of each disbursement, the applicant must certify on the receipt that it has spent or incurred expenses (with a description of the expenditures), made in kind contributions, or made deposits in the trust account in an amount equal to the specified portion of its share of the expenditures to date, or estimated to be made in the next month, or such other period as is established by the head of the Federal agency (see § 43.30 for a description of eligible expenses). (4) The loan funds and applicant's portion shall be deposited in a trust account, separate from all other applicant accounts in a bank whose deposits are insured by the Federal Deposit Insurance Corporation. The applicant is not required to spend its portion first, nor deposit its cash contribution in such account in advance of its receipt of the initial disbursement of section 215 loan funds.

(d) *Loan repayment.* The following provisions apply to loan repayment: (1) Repayments of all or any portion of the loan shall be made, and unused section 215 loan funds shall be returned, to the head of the displacing agency and credited back to the account from which they were taken. In the case of a federally assisted project, the Federal share of such monies shall be credited to the program account of the Federal funding agency; (2) principal and interest, where applicable, shall be payable in full at the time of the first disbursement of the mortgage proceeds; (3) if any portion of a section 215 loan is not recovered from the first disbursement of mortgage proceeds, the maturity date for such portion not recovered shall be extended to the data of the final disbursement of the mortgage proceeds; (4) if the commitment of mortgage insurance expires before an initial endorsement can occur, the entire amount of the loan shall become due and payable on the date of expiration. In any event, the entire amount of the loan shall be due and payable not more than 2 years from the date of the first disbursement, unless the date is extended by the head of the agency making the loan; (5) if the loan is made for planning for the development of a project of individual sales type homes, the loan disbursements shall be repaid in installments of principal with interest thereon, if any, as mortgage proceeds on the individual homes are disbursed. The amount of the installment payments of principal shall be prorated in accordance with the number of individual homes for which the mortgage insurance commitment has been issued. The entire principal and interest thereon, if any, shall be paid in full in any event not more than 2 years after the first installment under the loan agreement, unless time for repayment has been extended by the head of the agency making the section 215 loan; (6) repayment of all or any portion of a loan which cannot be recovered from the mortgage proceeds, or from the sale of real property acquired with loan funds, may be waived by the head of the Federal agency financing the loan, except for a limited dividend sponsor.

(e) *Provisions to be included in section 215 loan contract.* A Guide Form Loan Contract and Trust Agreement is appended hereto as Appendix I. In any event each contract covering a section 215 loan shall contain specific provisions:

(1) That the mortgage application for housing planned with a section 215 loan shall be filed within 9 months following approval of the loan, unless the head of the Federal agency determines that an extension of the time period is justified.

(2) For a loan disbursement, which provisions shall be in accordance with paragraph (c) of this section.

(3) For repayment of the loan, which provisions shall be in accordance with paragraph (d) of this section.

(4) That section 215 loan funds, including the applicant's portion (which may be in cash or in kind), shall be used only for the purposes set forth in the approved loan application.

(5) For compliance with the requirements specified in § 43.38.

(6) That priority for occupancy will be given to those displaced by the project(s) providing the loan funds.

(7) Loans made to limited dividend sponsors must be secured by the personal guaranties of the principals.

§ 43.32 Procedures for provision of section 215 loans.

(a) The head of the Federal displacing or funding agency may make a section 215 loan as part of the project cost, or approve a loan as part of the cost of a federally assisted project, respectively, to assist in the development of replacement housing, if such a loan would stimulate the rehabilitation or construction of housing to meet the needs of the persons to be displaced by the project. In the case of a federally assisted project, loans made under section 215 shall be treated in the same manner as other costs of relocation payments and assistance and shall be subject to the provisions of section 211 of the Act with respect to Federal-local cost sharing. If necessary for assuring economic feasibility, the head of the displacing agency may approve a section 215 loan to plan for housing that would not be occupied entirely by persons displaced by the displacing agency. However, the sponsor is required to withhold approval of housing applications from persons other than those displaced until the receipt of a formal notice from the displacing agency that all persons being displaced who desire occupancy have exercised their options to file an application.

(b) Whenever, in connection with the planning, development or execution of a direct Federal or a federally assisted project, it appears to the head of the displacing agency that adequate replacement housing may not be available to satisfy the requirements of the Act, or that such housing is not available on a nondiscriminatory basis, either (1) in the case of a federally assisted project, the head of the displacing agency wishing to make a section 215 loan shall seek approval from the head of the Federal agency providing the assistance; or (2) in the case of a direct Federal project, the head of the Federal agency may decide to provide loans under section 215 to stimulate the development of the housing.

(c) A determination that replacement housing must be constructed or rehabilitated should be based, as a minimum, upon an analysis of the needs and choices of those to be displaced by the proposed project, by income, family size, and type of housing in relation to the nature and volume of competing demands for standard housing of appropriate size and cost in the locality; and information secured from officials administering other programs in the community which will result in displacement, as to their relocation housing resource plans. Existing data, such as that set forth in a project's relocation plan, supplemented and updated where necessary, may be used to ascertain precisely the need to utilize section 215 to provide the required housing.

(d) Invitations to prospective sponsors of housing who may be eligible for a loan. When an assessment has been made of the number and types of housing units which will be required, the displacing agency shall make a diligent effort (e.g., by advertisement of the particulars on

the required housing, and/or personal appearances before affected citizens and possible sponsors) to find and encourage potential sponsors of housing, particularly community groups and other nonprofit organizations, to apply for a section 215 loan. A prospective applicant should be instructed to submit, in writing, a general outline or description of the proposed housing plan. Whenever possible, an estimate of the approximate costs for planning and production of the housing should be included. Advice on the standards and requirements for mortgage insurance and on the contents of the proposed housing plan, and assistance in preparing such a plan are availble from HUD Area Offices.

(e) Displacing agency's preliminary assessment of sponsor's eligibility: The head of the displacing agency shall make a preliminary determination, based upon HUD standards and requirements for housing sponsors (available from HUD Area Offices), as to whether the applicant and the loan request are apparently acceptable, and whether the items included in the proposal are reasonable and necessary to cover the planning and other preliminary expenses identified in § 43.30 (see Appendix II for guide form which, though it applies only to nonprofit sponsors, also indicates the information required from other sponsors). In determining the applicant's acceptability, the displacing agency shall give substantial weight to the degree to which the prospective sponsor has roots in the community, and the extent to which its planning of the replacement housing involves affected residents. If based upon his preliminary assessment, the head of the displacing agency decides that a prospective sponsor appears to meet the eligibility requirements for a section 215 loan to develop all or a portion of the kind and number of housing units required, he shall notify HUD in writing, with a copy to the applicant. In the case of a federally assisted project, a copy should also be sent to the head of the Federal agency. The notification should request from HUD a preliminary evaluation of the tentative plan for the proposed housing and the eligibility of the applicant for Federal mortgage insurance, and such other advice as may be useful to the displacing agency and the prospective applicant.

(f) Conference with the applicant on project and mortgage financing eligibility. If HUD's preliminary evaluation is favorable, the displacing agency shall advise the applicant to arrange a conference with the HUD Area Office. During the conference HUD will review the tentative plan for the proposed housing, the applicant's eligibility to apply for Federal mortgage insurance, and the general soundness of the plan for the housing. HUD will also advise the applicant on the standards and requirements for mortgage financing approval. Whenever practical, a representative of the displacing agency should attend the conference. The conference with HUD should be held before the section 215 loan applicant makes any definite plans for land acquisition or professional services. Within 20 days following the conference, HUD shall notify the head of the displacing agency in writing, with a copy to the applicant, of its preliminary determination that the proposed housing plan is acceptable; or if the plan or the sponsor is not acceptable, an explanation of the reasons therefor, and steps that need to be taken in order to make the proposal acceptable. Approval of an application to cover expenses incidental to the development of an application for mortgage insurance, does not assure that the application so developed will necessarily receive approval for mortgage insurance.

(g) Formal application. Upon receipt by the displacing agency of a HUD notification of acceptability pursuant to paragraph (f) of this section, the prospective loan applicant shall be advised to make formal application to the displacing agency for a section 215 loan. If deficiencies were described in the notification, the displacing agency, in consultation with HUD, shall work with the prospective loan applicant to correct the deficiencies, if possible. The formal application shall include a housing plan, which as a minimum specifies how, when and where the housing will be provided, what insured program(s) (see § 43.36(a)) will be utilized, the prices at which the housing will be rented or sold to the families to be displaced, the arrangements for housing management and social services, as appropriate, the environmental suitability of the location(s), if known, of the proposed housing, and the arrangements for maintaining rent levels appropriate for the persons to be rehoused.

§ 43.33 Approval of Federal agency.

In the case of a federally assisted project, the head of the Federal agency providing the assistance to the project causing displacement shall establish procedures either (1) to require his approval prior to processing the section 215 loan applicant pursuant to § 43.34 below, or (2) withhold such approval until after the amount of the principal and interest, if any, of the loan has been determined according to § 43.34 (b) and (c).

§ 43.34 Processing the loan application.

When in the case of a federally assisted project, the displacing agency has received approval of the Federal agency providing the financial assistance, and in the case of a Federal project the head of the Federal agency determines that a section 215 loan application is appropriate, the application should be processed as follows:

(a) The total amount of the costs necessary to cover the preliminary expenses (see § 43.30) shall be computed. Each individual item of expense should be examined. HUD will provide the displacing agency with advice on the reasonableness of the applicant's proposed expenses for planning and obtaining federally insured mortgage financing, including an indication of expenses, if any, which may not be reimbursed from mortgage proceeds, and its approximation of the total amount required.

(b) The displacing agency shall then calculate the amount of the loan which shall not exceed 80 percent of the necessary expenses.

(c) In the case of a limited dividend sponsor, the interest rate of the dollar amount calculated under paragraph (b) of this section shall be determined in accordance with § 43.31(b). (No interest shall be charged on loans to nonprofit organizations.)

(d) A loan contract shall be prepared by the displacing agency, which shall be signed by the sponsor and the displacing agency. (See § 43.31.)

§ 43.35 Review by head of Federal agency.

If at any time the applicant's proposal is rejected by the displacing agency, the prospective applicant may have the plan reviewed by the head of the Federal agency which has the authority for final approval. In making this review, the head of the Federal agency shall consult HUD if the rejection of the applicant's proposal was based on HUD–FHA standards for housing sponsors.

§ 43.36 Housing programs for which section 215 loans generally may be utilized.

(a) The following are examples of housing programs (which include rental, single-family homeownership, cooperative and condominium) for which section 215 loans generally may be utilized. Except as otherwise indicated, the programs listed below are authorized by the National Housing Act, as amended (12 U.S.C. 1701 et seq.).

(1) Section 203(b) homes and 203(i) homes in outlying areas.

(2) Section 207 rental housing.

(3) Section 213 cooperative housing.

(4) Section 220 rental housing in urban renewal areas, homes in urban renewal areas.

(5) Section 234 condominium.

(6) Section 236 rental and cooperative housing for lower income families.

(7) Section 515 of the Housing Act of 1949, as amended.

(8) Section 235 interest subsidies for housing for sale to lower income families.

(9) Section 221(d)(2) mortgage insurance for housing for low- and moderate-income families.

(10) Section 221(d)(4) mortgage insurance for rental housing.

(11) Section 221(d)(3) market rate mortgage insurance with rent supplements.

(12) Housing developed under section 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 where such housing involves a federally insured mortgage.

§ 43.37 Aggregate housing under jointly financed programs.

Where several agencies are administering programs resulting in residential displacement, opportunities shall be sought out for the joint planning and development of housing through aggregating section 215 loan funds to plan for the provision of federally insured replacement housing for all such programs.

Where project funds from more than one displacing agency are to be aggregated for this purpose, they may be apportioned among such agencies according to the expected occupancy of such housing by persons displaced by each project.

§ 43.38 Conformity with the Act and other statutes, policies, and procedures.

(a) *Civil rights and other Acts and executive orders.* The administration of section 215 loans shall be in conformity with the provisions of section 1 of the Civil Rights Act of 1866 (42 U.S.C. 1982), Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the National Environmental Policy Act of 1969, and Executive Orders 11063 and 11246, as amended, and regulations pursuant thereto.

(b) *Title VI assurance.* Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. Every contract for a loan under section 215 and every application for such a loan shall, as a condition of its approval and the extension of any assistance, contain or be accompanied by an appropriate assurance, as specified by the head of the Federal agency providing funds for the loan, that the housing and preliminary planning and other activity assisted will be operated and administered in compliance with all requirements imposed by title VI and the title VI implementing regulations of the Federal agency.

(c) *Affirmative marketing.* Housing produced with the assistance of a section 215 loan shall be marketed on a nondiscriminatory basis to affirmatively promote equal housing opportunity as prescribed in Affirmative Fair Housing Marketing Regulations, Part 200 of this title, 37 F.R. 75 (Jan. 5, 1972), effective February 25, 1972, and as further prescribed in Circular 8000.4, issued by the Department of Housing and Urban Development pursuant to the Affirmative Fair Housing Marketing Regulations. An assurance of compliance with this affirmative marketing requirement must be submitted by each loan applicant, and incorporated in the contract. Among the applications resulting from both affirmative marketing efforts and referrals from the displacing agency, those from persons displaced by the project providing the loan funds must be given preference.

(d) *Project selection.* Housing planned with a section 215 loan must meet all requirements normally applicable to a federally insured mortgage, and in the case of a section 236, or a section 235(i) project or a project involving Federal rent supplements must be acceptable under HUD's Project Selection Criteria contained in Part 200 of this title, Subpart N (37 F.R. 203, Jan. 7, 1972).

(e) *Location.* A site may not be approved if it is occupied by persons or business concerns who would have to be displaced unless the head of the Federal agency determines that other sites or locations are not available. In any event no site may be approved if those to be displaced would not be eligible for relocation assistance and payments under the Act. Based on the nature of each of its programs, each Federal agency must determine whether the use of project funds for planning replacement housing makes the Act applicable to displacement caused by the development of such housing.

Effective date. This regulation shall be effective upon publication in the FEDERAL REGISTER (7–25–72).

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

APPENDIX I

GUIDE FORM OF LOAN CONTRACT AND TRUST AGREEMENT

(Relocation Seed Money Loans)

This Loan Contract and Trust Agreement made and entered into this _____ day of _____, 197-- by and between the _____ (enter name of (1) Federal agency if loan is made under a direct Federal project; or (2) State agency if loan is made under a federally assisted project) (herein called Agency) and _____, a _____ organized and existing under and by virtue of the laws of the State of _____, having its principal offices at _____ (herein called Sponsor).

WHEREAS, the Sponsor intends to develop a housing project and to make or cause to be made an application to the Farmers Home Administration or HUD for a commitment to insure a loan under the provisions of section _____ of _____ (enter citation to appropriate statutory provision under which application for federally insured mortgage will be made), and the regulations issued pursuant thereto, and

WHEREAS, the Sponsor has applied for a loan in accordance with section 215 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (herein called Relocation Seed Money Loan) which application has been submitted to the Agency and the _____ (enter name of Federal Department or Agency if loan is made under a federally assisted project) for approval, which application is incorporated in and made a part of this agreement.

NOW THEREFORE, the parties mutually agree as follows:

1. The Sponsor has commenced planning a housing project identified as: (Herein called Project) and hereby represents that it possesses sufficient financial and/or other resources, combined with the advance to be made by the Agency, to complete successfully the processing preliminary to disbursement of mortgage proceeds to finance construction or rehabilitation of the project. The Sponsor convenants that it shall use its best efforts to meet the requirements of the _____ (enter Secretary of Housing and Urban Development or Farmers Home Administrator, as appropriate) to obtain a commitment for insurance under _____ (enter citation to appropriate statutory provision under which application for federally insured mortgage will be made) and the relevant regulations. The Sponsor further convenants that it shall file an application for such commitment within 9 months following the date of approval of the relocation seed money loan, unless the _____ (enter title of head of Federal Department or Agency administering the project or federally assisted project under which loan is made) determines that an extension of such 9 months period is justified.

2. Upon approval of the application for the relocation seed money loan the Agency will deliver to the Sponsor a check for the first disbursement. Delivery of this check shall constitute the Agency's acceptance of the terms of this agreement and both parties shall thereafter be fully bound by the terms of this agreement and application. The advance or advances to be made by the Agency pursuant to this agreement shall total $_____.

3. The Sponsor certifies that it has spent $_____ (if any) for the expenses listed in the application and that it will contribute $_____, representing _____ percent (not less than 20 percent) of the estimated cost of planning the project, as its share, and further agrees that this contribution and all funds received hereunder from the Agency shall be held in trust by the Sponsor and shall be deposited in a trust account, separate from all other accounts in a bank whose deposits are insured by the Federal Deposit Insurance Corporation. Where the Agency's advance is made in a series of staged payments, the Sponsor may make its contribution on the same basis. The Sponsor agrees to certify on the receipt for each advance that it has spent, incurred expenses for, or deposited in the trust account an amount equal to _____ percent (not less than 20 percent of the expenditures to date and estimated to be made in the next month for planning this project). Sponsor's expenditures and funds in the trust account shall be used only for the purposes stated herein and unexpended funds shall be returned to the Agency as beneficiary of the trust for appropriate adjustment. Any member of the sponsoring organization receiving funds from the trust account in violation of this agreement shall hold such funds in trust for the Agency.

4. Funds in the trust account shall be expended only for the purposes set forth in the application and in the amounts specified therein, unless such other or additional expenditure shall be approved in advance by the Agency in writing. The Sponsor expressely covenants to exercise its best efforts to obtain all services at the least possible expense. The Sponsor agrees to maintain and keep complete records of all disbursements from the trust account for a period of 3 years after the last disbursement under this agreement. The Sponsor shall make such records available upon request to the Agency, Federal auditors, and the Comptroller General of the United States for audit and inspection.

[1] 5. The Sponsor promises to repay to the Agency the full amount of the advance made in accordance with this agreement together with interest at the rate of _____ percent per annum. Interest on each disbursement shall be computed on a daily basis from the date of receipt by the Sponsor.

[1] 5a. Principal and interest, where applicable, shall be payable in full at the time of the first disbursement of the mortgage proceeds. Where any portion of the funds disbursed from the trust account is not authorized by _____ (enter HUD or Farmers Home Administration, as appropriate) to be recovered from the first disbursement of mortgage proceeds, the maturity for this portion of the funds shall be further extended to the date of the final disbursement of mortgage proceeds. In the event the _____ (enter HUD or Farmers Home Administration as appropriate) commitment expires before mortgage proceeds are disbursed, the entire amount shall be due and payable on that

See footnotes on page 14774.

date. In any event the entire amount shall be due and payable not more than 2 years from the date of the first disbursement under this agreement unless extended by the Agency in writing.

5b.[1] In the event this contract is for the development of a project of individual sales type homes, principal, and where applicable, interest shall be payable in full, in installments as the mortgage proceeds on the individual homes are disbursed. The amount of the installment payments will be prorated in accordance with the number of individual houses in the project for which _____ (enter HUD or Farmers Home Administration as appropriate) issues mortgage insurance commitments. In any event, the entire amount of principal and, where applicable, interest, shall be due 2 years from the date of the first installment under this agreement unless extended by the Agency in writing.

6.[2] The Agency agrees to waive repayment of any expended portion of the loan that it determines cannot be included in the mortgage proceeds or recovered from the sale of real property acquired with loan funds, provided that the Sponsor submits a full and complete accounting, satisfactory to the Agency, of all funds expended, including funds disbursed from the trust account together with the Sponsor's certification that all sums were in payment of expenditures listed in the application and approved by the Agency. Any unexpended funds in the trust account shall be transferred to the Agency for appropriate adjustment. The Agency will not cancel repayment of that portion of the loan which is determined to be in excess of _____ percent (enter percentage specific in section 3 above) of the total expenditures certified to by the Sponsor and approved by the Agency.

[2] 7. In the event the Sponsor is unable to obtain a federally insured mortgage, the Agency agrees to waive repayment of the loan, provided the Sponsor has complied with all the foregoing requirements of this agreement, has diligently tried to obtain a federally insured mortgage, and submits a full and complete accounting satisfactory to the Agency of all funds expended, including funds disbursed from the trust account together with the Sponsor's certification that all sums were in payment of expenditures listed in the application and approved by the Agency: *Provided*, That (subject to section 6 above) repayment shall not be waived if the Sponsor shall obtain mortgage financing from some source not insured by _____ (enter HUD or Farmers Home Administration as appropriate) for this or a similar project on the same site. Any unexpended funds in the trust acount shall be returned to the Agency for appropriate adjustment. The Agency will not cancel repayment of that portion of the loan which is determined to be in excess of _____ percent (enter percentage specified in section 3 above) of the total expenditures certified to by the Sponsor and approved by the Agency.

8. Special conditions:

a. *Compliance with title VI of the Civil Rights Act of 1964.* The sponsor agrees to comply with all requirements imposed by title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), the statement assuring compliance with that title executed as part of the loan application which is hereby incorporated and made a part of this contract and the applicable regulations implementing that title issued by _____ (enter name of Federal Department or agency administering Federal project or federally assisted project).

b. *Compliance with equal employment opportunity requirements.* The Sponsor agrees to comply with the provisions of Executive Order 11246 and the regulations of the Secretary of Labor at 41 CFR Chapter 60, and to incorporate or cause to be incorporated into any contract for construction work or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

The Sponsor hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment, advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective-bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for furclauses of this contract or with any of the ther Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

The Sponsor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Sponsor agrees that it will assist and cooperate actively with the Department and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Department and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Department in the discharge of its primary responsibility for securing compliance.

The Sponsor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Department or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the Department may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

c. *Compliance with affirmative fair housing marketing requirements.* The Sponsor agrees to comply with all fair housing and

[1] (The references in paragraphs 5, 5a, and 5b regarding interest are applicable only to loans made to a limited dividend sponsor as determined by the Secretary.)

[2] (Paragraphs 6 and 7 are not applicable to loans made to a limited dividend sponsor as determined by the Secretary.)

equal housing opportunity requirements, including affirmative marketing, imposed by Executive Order 11063 (27 F.R. 11527) and Title VIII of the Civil Rights Act of 1968 (Public Law 90–284, 82 Stat. 73) and all regulations issued by the Department of Housing and Urban Development thereunder.

d. *Compliance with project selection criteria.* The sponsor agrees to make every effort to plan and develop housing that would be acceptable under the Project Selection Criteria Regulations issued by the Department of Housing and Urban Development.

e. *Environmental protection requirements.* The sponsor agrees to supply all information requested by the _____ (enter name of Federal department or agency) in order to permit compliance with the (department's) (agency's) implementing the National Environmental Policy Act of 1969 (Public Law 91–190, 83 Stat. 852) and the Guidelines of the Council on Environmental Quality.

f. *Preference to "displaced persons."* The sponsor agrees that among the applications resulting from both affirmative marketing efforts and referrals from the displacing agency, those from persons displaced by the project providing the loan funds must be given preference. The sponsor further agrees that approval of applications for occupancy for persons other than those being displaced by the project will not be made until receipt of a formal notice from the displacing agency that all displaced persons desiring occupancy have exercised their options to file an application for occupancy.

_____
(Sponsor)

By: _____

APPENDIX II

FHA Form No. 3433
Rev. 1/68

Form Approved
Budget Bureau No. 63–R1055.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL HOUSING ADMINISTRATION

REQUEST FOR PRELIMINARY DETERMINATION OF ELIGIBILITY AS NONPROFIT SPONSOR OR MORTGAGOR

Under section 221, 231, or 232 of the National Housing Act

To: The Federal Housing Commissioner,
c/o _____
_____
_____
_____
Name of Proposed Project_____
Location _____
Section _____
(221, 231, or 232)

The instructions relating to this request have been read and are fully understood. A preliminary determination as to the eligibility of the proposed mortgagor as a nonprofit corporation or association is requested. In order to assist in the determination, the following information and that on the attached exhibit is supplied.

1. The_____
(Name of sponsoring group)
received its Charter on _____ pursuant
(Date)
to _____ of the laws of the State of
(cite Statute)
_____.

2. Purpose for which the sponsoring group was formed (as stated in its charter):
_____
_____

3. Motivation of the sponsoring group with respect to the proposed project:
_____
_____

4. Record of achievement in such fields as housing, human rehabilitation, social service, medical assistance, etc. (Describe the projects, give present status and periods in which involved.)
_____
_____

5. In an attached exhibit, furnish complete information for each of the items set forth below. Where arrangements have not been made, it must be so stated and information supplied as to what is contemplated.

a. List of the officers and directors of the sponsoring group including names, addresses, and title of positions.
_____
_____

b. Relationship between sponsoring group and mortgagor (existing connections or proposed, if mortgagor has not been formed).

c. Statement as to the source or sources from which the sponsor acquired its capital and acquires its income.

d. Source and amount of funds for the following expenses requiring cash outlay by the sponsor prior to receipt of the insured loan advances (if borrowed, give terms of the loan):

(1) FHA application and commitment fees,
(2) Option on project site, and
(3) Advance legal, housing consultant, and architect fees.

e. Detailed statement of the arrangements made or proposed for the following, listing the principals involved, the relationship between such principals and the sponsor and mortgagor, giving the terms of the arrangements and describing the circumstances surrounding each:

(1) Land upon which the project is to be built,
(2) Construction of the project, including the selection of the general contractor, subcontractors, and architect.
(3) Legal and housing consultant services,
(4) Financing of the project, and
(5) Management of the project.
_____
_____

To the best of my knowledge and belief, the foregoing information and that contained in the attached exhibit is true and correct.

_____
(Signature)

_____ _____
(Date) (Title—officer of sponsoring group)

FHA Form No. 3433—Instructions
(January 1968)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL HOUSING ADMINISTRATION

Instructions Relating to Request for Preliminary Determination of Eligibility as Nonprofit Sponsor or Mortgagor

Sections 221, 231, and 232 of the National Housing Act, as amended, provide financing for nonprofit mortgagors. A nonprofit mortgagor is defined in FHA regulations as follows:

"The mortgagor shall be a corporation or association organized for purposes other than the making of a profit or gain for itself or persons identified therewith and which the Commissioner finds is in no manner controlled by nor under the direction of persons or firms seeking to derive profit or gain therefrom."

The purpose of these instructions and form is to obtain the information required to enable the FHA Commissioner to make a determination prior to issuance of a letter of feasibility and acceptance of an application, that the sponsor of a mortgagor and the mortgagor itself, if the mortgagor has been created, is truly nonprofit in accordance with the definition above. The purpose of the preliminary determination is to prevent, as far as possible, unnecessary outlay of funds for FHA fees, plans, etc., by a sponsor or proposed mortgagor, who may be found ineligible. If found ineligible, the application will not be accepted. If tentatively found eligible, sponsor, mortgagor, and the parties supplying land and services, in accordance with the terms of the commitment to insure, will be required to formally certify as to motives and relationships prior to initial endorsement of the note for insurance. A determination as to eligibility will be made at that time.

Determination of nonprofit eligibility requires a knowledge of the motivation of the sponsor and mortgagor, relationship between the sponsor and mortgagor, and relationship between the mortgagor or sponsor and the various parties or firms concerned with the project and mortgage transaction. It is essential that there be a full disclosure of all relationships and of all facts pertaining to each relationship.

Qualifications for successful sponsorship. It is most important that nonprofit sponsors should have continuity, and a serious and long-range desire to provide housing for low- and moderate-income families and individuals. Well-established institutional sponsors such as churches, labor unions, and fraternal organizations, are more likely to have continuity and a history of community and social service than a group organized for the specific purposes of initiating the project. In certain circumstances, however, a nonprofit group could have been recently formed with sufficiently broad base of community or neighborhood support so as to assure continuity and successful operation of the proposed project.

A group with deep roots in the community or neighborhood will probably be stronger than a national or regional organization without established roots in the community. Moreover, such a locally oriented sponsor is more likely to produce tenants for the project.

A nonprofit sponsor should be motivated not only by a desire to develop an adequate housing project, but also by a concern for the project's continuing successful operation. The entire membership of the sponsoring organization, not just a few of its representatives, should be thus motivated.

Establishing eligibility. In order to establish that a nonprofit sponsor is properly qualified to initiate, complete, and operate a housing project for low- and moderate-income families, FHA requires that:

1. The sponsor is acting on its own behalf and is not, either knowingly or unwittingly, under the influence, control, or direction of any outside party seeking to derive profit or gain from the proposed project, such as a landowner, real estate broker, contractor, or consultant.

2. The sponsor fully understands the responsibilities and obligations that attach to sponsorship of a housing project and its continuing successful operation. The principals and membership of the nonprofit sponsor organization should be prepared to explore in depth with the FHA director problems connected with land acquisition, interim and permanent financing, selection of architects and contractors, construction, rent-up, and management.

3. The sponsor is prepared by resolution of its directors or trustees to acknowledge the responsibilities and obligations of sponsorship and continuing ownership and that

this position reflects the will of its membership.

4. The sponsor is reliable on the basis of its reputation and past performance or that of its principals. In determining reliability, consideration will be given to any previous experience the sponsor has had in providing housing or related social or community services.

5. The sponsor either has within its own organization or has made arrangements for the necessary professional and management skills which are essential for the successful initiation, development, completion, and operation of the proposed project.

Capacity of sponsor. The proposed project should not be beyond the capacity of the sponsor.

One would not expect a small bank to take on the underwriting of a major industrial financing venture. Similarly, it would not be reasonable to expect a small church to assume responsibility for a large housing project. The size of the project must be in keeping with the size and capabilities of the sponsoring organization.

If a well-motivated and reliable sponsor proposes a project beyond its capabilities; effort should be made to obtain cosponsors which will permit the combining of capabilities to the extent necessary to satisfy the requirements of the proposal, or the size of the project should be reduced.

Responsibilities of sponsorship. Some nonprofit sponsors may assume that the responsibility for the project, particularly in time of stress, rests with the government, the builder, or someone other than themselves; and that their role as sponsor is merely to lend their name to the project. If this attitude exists, it must be dispelled. Sponsors must understand that it is their project, and must evidence a serious intent to provide continuing support and an effective management.

The FHA commitment and mortgage insurance are predicated upon FHA's estimate (1) that there will be sufficient mortgage proceeds plus required escrows to build the project, and (2) that the rental or project income will be sufficient to meet all operating expenses and mortgage payments during the full term. Nonprofit sponsors should understand, however, that owning and operating a housing project involves difficult and trying problems, including the possibility that some unforeseen circumstances could cause project funds to run short. They should understand that FHA would expect them to cope with these problems at the time of need by all means at their disposal, such as promotional help, contributive management or services, appeals to membership or affiliated organizations. They are not legally required to provide such support, but any nonprofit sponsor should by definition feel a strong sense of moral duty to help in these circumstances. There is no reason to distinguish between a housing project and any other social purpose asset of a nonprofit organization, such as an elderly home, a medical facility, a convalescent center or a day-care facility.

It is stressed, however, that FHA does not insist upon or require a pledge or guaranty, except in rare cases where deficits are anticipated during "rent-up." What is required is a full understanding of responsibility on the part of the nonprofit sponsor. Sponsors must, of course, establish that they have the capabilities to meet expenses prior to the drawdown of mortgage funds, including expenses for architectural services, legal and other professional services, etc. Such expenses need not be covered by the sponsor's funds alone. They may be met through assured advances from such other parties as a bank, a federal, state or municipal fund, a foundation, a church hierarchy, or another nonprofit organization.

It is permissible to borrow funds from the contractor or other parties connected with the project if they are for items to be covered by the insured mortgage and if such sums are paid in full at the time the mortgage proceeds are advanced.

Potential sponsors. Although it is not desirable to attempt to establish rigid criteria for determining eligibility of nonprofit sponsors, certain factors will indicate strength, other factors will suggest weakness, and some factors will make the sponsor ineligible. An evaluation of factors applicable to a particular sponsor will assist in reaching a judgment about the eligibility of the sponsor and his ability to successfully carry out the proposed project.

Among factors which indicate strength are: (1) A serious desire to provide housing for qualified low- and moderate-income families and individuals, (2) deep roots in the neighborhood and community, (3) previous experience in successfully operating housing projects, (4) widespread support for the proposal within the membership of the nonprofit organization, (5) professional expertise within the nonprofit organization or available to it from qualified outside sources, (6) adequate financial capacity to meet initial expenses and to provide for unforeseen contingencies during construction and operation of the project, and (7) absence of conflicts of interest.

Among factors which suggest weakness are: (1) No previous housing experience, (2) no previous experience or contacts in the neighborhood in which the proposed project would be located, (3) evidence that a builder, landowner, consultant, or some other party expecting to benefit financially had initiated the project and dominates the sponsorship, (4) lack of assured continuity of support by the nonprofit group as a whole, or the support of individuals who may not continue their association with the sponsoring organization, (5) heavy commitments in other fields which would tax the financial capacity of the group and weaken its support of the proposed project in times of stress, and (6) lack of professional competence to build and operate the project successfully.

Eligible nonprofit sponsors will be found among organizations such as:

A strong local chapter of a national service organization.

A broadly based community action group—such could be recently formed if there is positive assurance of continuity.

An established church with a good record of social services.

A National or State church organization.

An active charitable foundation of long standing—such could be a family foundation with unquestionable motivation, continuity, and no relationship to profit parties.

A labor union with an active local and full support of the membership.

An outstanding local service organization such as a Junior Chamber of Commerce.

Some sponsors are clearly ineligible without considering factors of strength and weakness, such as a nonprofit foundation controlled by the builder or his family, or by any other person or persons who would derive a profit or fee from the project.

Special Considerations for Section 221(h) Rehabilitation Sales Sponsorship. The nature of the program; i.e., the rehabilitation and sale of properties to low-income purchasers, requires a special type of sponsorship.

The responsibility as it pertains to the real estate is relatively short term; whereas the responsibility for continued social services to the individual low-income owners is a long-term one. The sponsor must have the capacity or ability to arrange for the continued services required to aid the purchasers to become responsible home owners.

A group of public-spirited citizens organized specifically for the purposes of the program may be qualified if it can be demonstrated that the group has the motivation, determination, and capacity to assemble, rehabilitate, and market the properties to qualified purchasers and at the same time provide the required long-term services to the new home owners.

[FR Doc.72-11524 Filed 7-24-72;8:56 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 888e—DISPOSITION OF CONSCIENTIOUS OBJECTORS

Miscellaneous Amendments

Part 888e of Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

§ 888e.2 [Amended]

1. Section 888e.2 is amended by correcting, in line 9 of paragraph (b), the word "diety" to read "deity."

§ 888e.8 [Amended]

2. Section 888e.8 is amended by deleting subdivision (iii) of subparagraph (2) of paragraph (a).

3. Section 888e.12 is revised by adding paragraph (c) to read as follows:

§ 888e.12 Preparation of application.

* * * * *

(c) Application for discharge will be submitted under AFR 36-12, paragraph

16m, July 17, 1969; AFM 39–10, paragraph 3–8r, October 20, 1970; AFR 45–42; AFR 45–43; ANGR 36–05; or ANGR 39–10, as appropriate. Applications for discharge or noncombatant duty will be prepared in sufficient copies to arrive at AFMPC (DPMAKO for officers, DPMAKE for airmen), Randolph Air Force Base, Tex. 78148, in two copies.

4. Section 888e.14 is amended by revising paragraph (b) to read as follows:

§ 888e.14 Advice to applicant.

* * * * *

(b) Have the applicant execute the statement required by § 888e.16 and forward it with the case to AFMPC.

* * * * *

5. Section 888e.22 is amended by revising the note which immediately follows the introductory text to read as follows:

§ 888e.22 Appointment of investigating officer.

* * * * *

NOTE: Judge advocates in the grade of captain or higher may be appointed as investigating officers. The officer so appointed will not be an individual in the chain of command of the applicant. If the applicant is a commissioned officer, the investigating officer must be senior in both temporary and permanent grades to the applicant.

* * * * *

§ 888e.26 [Amended]

6. Section 888e.26 is amended by adding on line 16 after "command" the phrase "of the applicant."

§ 888e.32 [Amended]

7. Section 888e.32 is amended by replacing "HQ USAF", in line 5, with "AFMPC."

§ 888e.36 [Amended]

8. Paragraph (b) of § 888e.36 is amended by replacing "HQ USAF", in line 2, with "AFMPC."

9. Section 888e.46 is revised to read as follows:

§ 888e.46 Disposition of correspondence.

After final approval action is taken on an application, the CBPO/DPMMR will include one copy of the approved correspondence resulting in discharge in the Field Record Group. The Field Record Group will then be sent to AFMPC/DPMDRR, Randolph Air Force Base, Tex. 78148, according to AFM 35–14. One copy of the application, including statement of member resulting in reassignment to noncombatant duties, and one copy of all disapproved applications will be filed in the Field Record Group in accordance with AFM 35–14. All other copies will be disposed of in accordance with AFM 12–50.

§ 888e.48 [Amended]

10. Section 888e.48 is amended by changing the symbols, "CBPO–SA" and "CBPO–ASGN", in the first sentence to read "CBPO/DPMQS" and "CBPO/DPMCA", respectively.

§ 888e.50 [Amended]

11. Section 888e.50 is amended by replacing "CBPO Special Actions Unit", in the second sentence, with "CBPO/DPMQS."

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012)

12. Add a new Subpart F to read as follows:

Subpart F—Procedures for Air Reserve Forces Not on Extended Active Duty

Sec.
888e.60 Required information.
888e.62 Action by ARPC.
888e.64 Information provided applicant.
888e.66 Action by active duty base.
888e.68 Investigating officer's report.
888e.70 Forwarding of application.
888e.72 Status of applicant whose request is under consideration.

AUTHORITY: The provisions of this Subpart F issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

Subpart F—Procedures for Air Reserve Forces Not on Extended Active Duty

§ 888e.60 Required information.

A member of the Inactive Air Force Reserve who seeks either separation from the Air Force or assignment to noncombatant duties by reason of conscientious objection will submit an application therefor through ARPC/DPAAD, 3800 York Street, Denver, CO 80205. The applicant will include whether he is seeking a discharge or assignment to noncombatant duties and will include that which is set forth in § 75.6 of this title.

(a) Applications for 1–A–O status will not be processed unless accompanied by a voluntary request for separation in accordance with AFR 45–43 (airmen), paragraph 10a(2), or AFR 45–42 (officers), paragraph 10. Such requests by the applicant will be submitted by letter in the format prescribed in § 888e.38 of Subpart E of this part. The request will be signed and dated by the applicant and made a part of the application prior to forwarding to ARPC.

§ 888e.62 Action by ARPC.

Upon notification by applicant to ARPC/DPAAD, 3800 York Street, Denver, CO 80205, of intent to claim conscientious objector status, ARPC/DPAAD will contact the Air Force base nearest the applicant's residence and request that they provide assistance to the applicant by making a judge advocate available to counsel him in accordance with § 888e.14 of Subpart D of this part, and make available a chaplain and a psychiatrist or medical officer, to meet with the applicant in accordance with § 888e.20 of Subpart D of this part.

§ 888e.64 Information provided applicant.

After contacting the nearest Air Force base, ARPC/DPAAD will notify applicant of the Air Force base to which he may go to receive the support he will need regarding the requirements outlined in §§ 888e.14, 888e.20, 888e.22 and 888e.24 of Subpart D of this part.

§ 888e.66 Action by active duty base.

Upon request by ARPC/DPAAD to provide assistance to the applicant, the CBPO/DPMQS will:

(a) Arrange an appointment with a judge advocate to counsel the applicant.

(b) Arrange appointments with the base psychiatrist or medical officer and chaplain.

(c) Notify the applicant of the above appointment dates.

(d) Insure that an officer in the grade of major or higher, or a judge advocate in the grade of captain or higher, is appointed as an investigating officer to investigate the applicant's claim as provided for by § 888e.22 of Subpart D of this part.

§ 888e.68 Investigating officer's report.

At the conclusion of the investigation, the investigating officer will prepare a written report which will contain the following:

(a) A statement as to whether the applicant appeared, whether he was accompanied by counsel, and, if so, the latter's identity, and whether the nature and purpose of the hearing were explained to the applicant and understood by him.

(b) Any documents, statements, and other material received during the investigation.

(c) Summaries of the testimony of the witnesses presented (or a verbal record of the testimony if such record was made).

(d) A statement of the investigating officer's conclusions as to the underlying basis of the applicant's conscientious objection and the sincerity of the applicant's beliefs, including his reasons for such conclusions.

(e) Subject to § 888e.10(e), the investigating officer's recommendations for disposition of the case, including his reasons therefore. The actions recommended will be limited to the following:

(1) Denial of any classification as a conscientious objector; or

(2) Classification as 1–A–O conscientious objector; or

(3) Classification as 1–O conscientious objector.

(f) The investigating officer's report, along with the individual's application, all interviews with chaplains or doctors, evidence received as a result of the investigating officer's hearing, and any other items submitted by the applicant in support of his case constitute the record. The investigating officer's conclusions and recommended disposition will be based on the entire record and not merely on the evidence produced at the hearings. The investigating officer will forward the completed record to CBPO/DPMQS; at the same time, furnish the applicant a copy of the record and inform him in writing that he has the right to submit a rebuttal to the report within 15 days after he receives his copy of the record. CBPO/DPMQS will promptly forward the completed report to ARPC/DPAAD.

§ 888e.70 Forwarding of application.

Fifteen days after the date applicant was provided his copy of the record (§ 888e.24(f)), or upon receipt of his rebuttal, whichever is sooner, ARPC/DPAAD will forward the record case to the staff judge advocate of ARPC for legal review. If necessary the staff judge advocate may return the case through DPAAD for further investigation. When the record is complete, the staff judge advocate will forward it to the commander, ARPC. The commander will forward it, with his personal recommendation for disposition and reasons therefor, to AFMPC/DPMAKE (airmen) or AFMPC/DPMAKO (officers), Randolph Air Force Base, Tex. 78148, in accordance with AFM 39–10 or AFR 36–12.

§ 888e.72 Status of applicant whose request is under consideration.

The reporting date of applicants ordered to extended active duty will be amended to allow receipt of the decision by AFMPC, provided the applicant has furnished ARPC/DPAAD all the information required under this part prior to the effective date of his active duty order. In this regard, the chaplain's report, the psychiatrist's report, and the investigating officer's report are considered necessary documents in determining whether a delay will be granted.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72-11380 Filed 7-24-72;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Ouachita and Black Rivers, Ark. and La.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.249 is hereby prescribed governing the use, administration, and navigation of the Ouachita and Black Rivers, Ark.-La., from the mouth of Black River (mile 0.0) to Louisiana-Arkansas State line (mile 237.0) and § 207.250 is hereby amended, changing its caption governing the use, administration, and navigation of the Ouachita River from the Arkansas-Louisiana State line (mile 237.0) to the head of navigation, effective upon publication in the FEDERAL REGISTER (7–25–72), as follows:

§ 207.249 Ouachita and Black Rivers, Arkansas and Louisiana, mile 0.0 to mile 237.0 (Arkansas-Louisiana line) above the mouth of the Black River; use, administration, and navigation.

(a) *Commercial statistics.* (1) As required by section 11 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 555), owners, agents, masters, and clerks of vessels plying upon the waterways to which this section applies shall furnish information on such activities for statistical purposes.

(2) The Waterway Traffic Report, ENG Form 3102, is prescribed for collecting information and data on vessels transiting locks and regulated canals. Copies of this form may be obtained free of charge from the District Engineer or the lockmaster at each lock.

(3) A report on the prescribed form shall be made and presented to the lockmaster at any of the federally operated locks for each trip made. Where no federally operated lock is passed, the report shall be mailed promptly to the District Engineer. Upon receipt of a written request from persons or corporations making frequent use of the waterways, permission may be granted to submit monthly reports in lieu of reports by trips.

(b) *Locks*—(1) *Authority of lockmasters.* The lockmaster shall be charged with the immediate control and management of the lock and of the area set aside as the lock area, including the lock approach channels. He shall insure that all laws, rules, and regulations for the use of the lock and lock area are duly complied with, to which end he is authorized to give all necessary orders and directions in accordance therewith, both to employees of the Government and to any and every person within the limits of the lock or lock area, whether navigating the lock or not. No one shall cause any movement of any vessel or other floating thing in the lock or approaches except by or under the direction of the lockmaster or his assistants. For the purpose of the regulations in this section, the "lock area" is considered to extend from the downstream to the upstream arrival posts.

(2) *Sound signals.* (i) Vessels desiring passage through a lock in either direction shall give notice to the lockmaster by one long and one short distinct blast of a horn or whistle when not less than three-fourths mile from the lock. When carrying dangerous cargo, the signal will be one long and two short blasts of the horn or whistle. When the lock is ready for entrance, the lockmaster shall reply with one long blast of a horn or whistle. When the lock is not ready for entrance, the lockmaster shall reply by four or more short, distinct blasts of a horn or whistle (danger signal). Permission to leave the lock shall be indicated by the lockmaster by one short blast. A distinct blast is defined as a clearly audible blast of any length. A long blast means a blast of from 4 to 6 seconds' duration. A short blast is of about 1 second's duration.

(ii) Vessels that are not equipped with a sound signal desiring passage through a lock shall give notice to the lockmaster by one long blast of the horn located at either end of the lock wall. The horn may be activated by pulling the properly marked chain or rope hanging from the horn down to the water surface. One long blast means a blast of from 4 to 6 seconds' duration.

(3) *Visual signals.* Signal lights will be displayed outside each lock gate to supplement the sound signals, as follows:

(i) One green light to indicate that the lock is open to approaching navigation.

(ii) One red light to indicate that the lock is not open to approaching navigation. Vessels shall stand clear.

(iii) One amber light to indicate that the lock is being made ready to receive vessels for lockage.

(iv) Navigation over the dam is possible during high water. When this condition exists, a continuous flashing red light, visible upstream and downstream, will be displayed to indicate that traffic will bypass the lock and pass over the dam.

(4) *Radiotelephone.* Two-way radio equipment is provided at all locks. The "Safety and Calling" channel (Channel 16, frequency of 156.8 mhz), will be monitored at all times for initial communication with vessels. Information transmitted or received in these communications shall in no way affect the requirements for the use of sound signals or display of visual signals as provided in subparagraphs (2) and (3) of this paragraph.

(5) *Precedence at locks.* (i) The vessel arriving first at a lock will be first to lock through. In the case of vessels approaching the lock simultaneously from opposite directions, the vessel approaching at the same elevation as the water in the lock chamber will be locked through first. Precedence shall be given to vessels belonging to the United States, passenger vessels, commercial vessels, rafts, and pleasure craft, in the order named. Arrival posts or markers will be established ashore above and below the locks. Vessels arriving at or opposite such posts or markers will be considered as having arrived at the lock within the meaning of this subparagraph. The lockmaster may prescribe such departure from the normal order of precedence stated above, as in his judgment, is warranted under prevailing circumstances to achieve best lock utilization.

(ii) The lockage of pleasure boats, houseboats, or like craft may be expedited by locking them through with commercial craft (other than barges carrying dangerous cargoes). If, after the arrival of such craft, no combined lockage can be accomplished within a reasonable time, not to exceed the time required for three other lockages, then separate lockages shall be made. Dangerous cargoes are decribed in Part 146, Title 46, Code of Federal Regulations.

(iii) Vessels, tows, or rafts with overall dimensions greater than 80 feet wide, 600 feet long, and 9 feet draft, or tows or rafts requiring breaking into two or more sections to pass through the lock may transit the lock at such time as the lockmaster determines that they will neither unduly delay the transit of craft of lesser dimensions, nor endanger the lock structure and appurtenances because of wind, current, or other adverse conditions. These craft are also subject to such special handling requirements as the lockmaster finds necessary at the time of transit.

(6) *Entrance to an exit from locks.* No vessel or raft shall enter or leave locks before being signaled to do so. While waiting their turn, vessels or rafts must not obstruct navigation and must remain at a safe distance from locks. Before entering a lock they shall take position in the rear of any vessels or rafts that precede them, and there arrange the tow for locking in sections if necessary. Masters and pilots of vessels or persons in charge of rafts shall cause no undue delay in entering or leaving locks upon receiving the proper signal. They shall take such action as will insure that the approaches are not at any time unnecessarily obstructed by parts of a tow awaiting lockage or already passed through. They shall provide sufficient men to move through locks promptly without damage to the structures. Vessels or tows shall enter locks with reasonable promptness after being signaled to do so.

(7) *Lockage and passage of vessels.* (i) Vessels shall enter and leave locks under such control as to prevent any damage to the locks, gates, guide walls, guard walls, and fenders. Vessels shall be provided with suitable lines and fenders, shall always use fenders to protect the walls and gates, and when locking at night shall be provided with suitable lights and use them as directed. Fenders on vessels shall be water-soaked or otherwise fireproofed before being utilized in the lock or approaches. Vessels shall not meet or pass each other anywhere between the guide walls or fender system at the approaches to locks.

(ii) Vessels which do not have a draft of at least 2 feet less than the depth over sills, or which have projections liable to damage gates, walls, or fenders, shall not enter the approaches to or pass through locks. Information concerning depth over sills may be obtained from the lockman on duty.

(iii) Vessels having chains, lines, or drags either hanging over the sides or ends or dragging on the bottom for steering or other purposes will not be permitted to pass locks or dams.

(iv) Towing vessels shall accompany all tows or partial tows through locks.

(v) No vessel whose cargo projects beyond its sides will be admitted to lockage.

(vi) Vessels in a sinking condition shall not enter locks or approaches.

(vii) The lockmaster may refuse to lock vessels which in his judgment fail to comply with the regulations in this paragraph.

(viii) This section shall not affect the liability of the owners and operators of boats for any damage caused by their operations to locks or other structures.

(8) *Number of lockages.* Tows or rafts locking in sections will generally be allowed only two consecutive lockages if individual vessels are waiting for lockage, but may be allowed more in special cases. If tows or rafts are waiting above and below a lock for lockage, sections will be locked both ways alternately whenever practicable. When two or more tows or rafts are waiting lockage in the same direction, no part of one shall pass the lock until the whole of the one preceding it shall have passed.

(9) *Mooring.* (i) Vessels and rafts when in a lock shall be moored where directed by the lockmaster by bow, stern, and spring lines to the bitts provided for that purpose and lines shall not be let go until the signal is given for the vessel or raft to leave. Tying to the lock ladders is prohibited.

(ii) The mooring of vessels or rafts near the approaches to locks except while waiting for lockage, or at other places in the pools where such mooring interferes with general navigation, is prohibited.

(10) *Operating locks.* The lock gates, valves, and accessories will be moved only under the direction of the lockmaster; but, if required, all vessels and rafts using the locks shall furnish ample help on the lock walls for handling lines under the direction of the lockmaster.

(c) *Trespass on U.S. property.* Trespass on lock grounds or other waterway property or injury to the banks, lock entrances, locks, cribs, dams, piers, fences, trees, buildings, or any other property of the United States pertaining to the waterway is strictly prohibited. No landing of freight, passengers, or baggage will be allowed on or over Government piers, lock walls, guide or guard walls, except by permission of the lockmaster. No person except employees of the United States or persons assisting with the locking operations under the direction of the lockmaster will be allowed on the dam, lock walls, guide walls, guard walls, abutments, or appurtenant structures.

(d) *Vessels to carry regulations.* A copy of the regulations in this section shall be kept at all times on board each vessel regularly navigating the waterways to which the regulations in this section apply. Copies may be obtained free of charge at any of the locks or from the District Engineer upon request.

§ 207.250 Ouachita River, Mile 237.0 (Ark. and La. line) above the mouth of the Black River to the head of navigation; use, administration, and navigation.

(a) *Authority of lockmasters.* The lockmaster shall be charged with the immediate control and management of the lock, and of the area set aside as the lock area, including the lock approach channels. He shall see that all laws, rules, and regulations for the use of the lock and lock area are duly complied with, to which end he is authorized to give all necessary orders and directions in accordance therewith, both to employees of the Government and to any and every person within the limits of the lock and lock area, whether navigating the lock or not. No one shall cause any movement of any vessel, boat, or other floating thing in the lock or approaches except by or under the direction of the lockmaster or his assistant.

(b) *Signals.* Boats desiring lockage in either direction shall give notice to locktenders, at not more than three-fourths mile from lock, by one long blast of whistle, not exceeding 10 seconds, followed by one short blast, not exceeding 3 seconds' length. The signal from locks for boats or other crafts to enter will be a white flag or a white light whirled in a circle, and the signal to leave will be a white flag or a white light moved back and forth horizontally.

(c) *Draft of boats.* No boat, barge, or vessel of any kind shall be allowed ordinarily to enter a lock drawing more water, to within 3 inches, than is shown by the gages on the lock sills; and any boat making such attempt shall not delay other boats in lightering cargo, but if directed by the lock officer shall withdraw so as to leave the entrance unobstructed. No boat, barge, or vessel of any kind will attempt to pass through the navigation pass of the dam drawing more water, to within 3 inches, than is shown by the gage on the pier adjacent to the lock.

(d) *Precedence at locks.* The vessel arriving first at a lock shall be first to lock through, but precedence shall be given to vessels belonging to the United States and to commercial vessels in the order named. Arrival posts or markers may be established ashore, above or below the locks. Vessels arriving at or opposite such posts or markers will be considered as having arrived at the locks within the meaning of this paragraph.

(e) *Lockage of pleasure boats.* The lockage of pleasure boats, houseboats, or like craft shall be expedited by locking them through with commercial craft (other than barges carrying petroleum products or highly hazardous materials) in order to utilize the capacity of the lock to its maximum. If, after the arrival of such craft, no separate or combined lockage can be accomplished within a reasonable time, not to exceed the time required for three other lockages, then separate lockage shall be made.

(f) *Rafts not towed.* Rafts to be locked through shall be moored in such a manner as not to close upper entrance to the locks and the sections for locking shall be brought to the lock as directed by the lock officer in charge. After passing the lock, the sections shall be reassembled at such distance below the lock as not to obstruct the entrance to boats privileged to pass through. Each raft shall furnish enough assistance to pass the raft readily.

(g) *Stations while waiting for lockages.* Descending boats, while waiting their turn to enter a lock, must lie at least 500 feet above and in such a position as to leave sufficient room for the passage of boats leaving the lock, or those having precedence in entering.

Ascending boats, while waiting their turn to enter, must keep out far enough to give boats leaving the lock free passage between them and the pile clusters or riverbank.

(h) *Entrance to and exit from locks.* In case two or more boats or tows are to enter for the same lockage, their order of entry shall be determined by the lock officer or his authorized agent. No boat shall attempt to run ahead of another while in a lock. The boat that enters first shall have precedence in exit.

(i) *Unnecessary delay at locks.* (1) Vessels must not obstruct navigation by unnecessary delay in entering or leaving locks. Masters and pilots will be held to a strict accountability in this respect. Boats or other craft failing to enter locks with reasonable promptness after being signaled to do so will lose their turn.

(2) Boats arriving in the entrance to the locks with their tows so shaped as not to facilitate locking, or in a leaky condition, may, in the discretion of the lockmaster, lose their turn.

(3) Leaky boats may be excluded from the locks until they are put in shape to be safely passed.

(j) *Mooring in locks.* Steamboats and other craft, when in the locks, shall be moored where directed by the lock officer, by bow, stern, and spring lines to the snubbing posts or hooks provided for that purpose. Tying boats to the lock ladders is strictly prohibited.

(k) *Handling of boats and rafts.* The captains in charge of tows and those in charge of rafts must provide sufficient men to move barges and rafts in and out of the locks without unnecessary delay.

(l) *Protection of lock gates.* Boats will not be permitted to enter or leave the locks until the lock gates are fully in the gate recesses and the lock officer has directed the boat to start.

(m) *Damage to locks or other structures.* This section shall not affect the liability of the owners and operators of boats for any damage caused by their operations to locks or other structures. The sides of all craft passing through locks must be free from projections of any kind or sharp corners which might injure the walls. Steamboats must be provided with suitable fenders. One man shall be kept at the head of every tow until it has cleared the lock and guide walls. He shall use fender to protect walls and use pike pole to help pass drift or ice while in the vicinity of lock.

(n) *Handling machinery.* None but employees of the United States for the purpose will be allowed to move any valves, gate, or other machinery belonging to the locks, but the lockmaster or his assistant may call for assistance from the master of any boat using the locks, should such aid be necessary, and when rendering such assistance the men so employed shall be strictly under the orders of the lockmaster or his assistant.

(o) *Refuse in locks.* The placing of any ashes, refuse, or obstructions in the entrance of locks or in the locks, or on the walls thereof, is prohibited.

(p) *Commercial statistics.* Masters or clerks of boats shall furnish in writing to lock officers such statistics of passengers and cargoes as may be required.

(q) *Trespass on lock property.* (1) The landing of freight or baggage on the lock walls or lock grounds will not be allowed, except for the use of the Government or its employees.

(2) Trespass on lock property or injury to the entrance, banks, cribs, locks, fences, trees, houses, shops, or other property of the United States pertaining to the locks is strictly prohibited.

(r) *Penalties.* In addition to the penalties prescribed by the Act of Congress previously quoted, boats which fail to comply with paragraphs (a) to (q) of this section will be refused lockage until they are complied with.

(s) *Lights.* (1) Except when submerged, each lock and adjacent pier of the dam will be lighted from sunset to sunrise without regard to the moon. A white light on the pier and a red light on the lock will indicate that the dam is navigable between the lights and the lock is not. A red light on the pier and a white light on the lock will indicate that the lock is navigable and the dam is not. A white light on both pier and lock will indicate that both dam and lock are navigable, the dam between the lights only. A red light on both pier and lock are navigable, the dam between the dam is navigable. Red and white lights on the lock will be exposed on the river wall at its junction with the dam. The downstream end of the river wall will be marked by a green light.

(2) When lock and piers are submerged, and for locks where the river configuration will permit, a white light will be exposed on the bank, both above and below the lock, the two lights defining a line crossing the dam at the middle point of the navigation pass. In other cases, when locks and piers are submerged, two red lights will be exposed, one above the other, on the bank at the upstream end of the land wall of the lock.

(t) *Raising or lowering dams.* When a dam is being raised or lowered all passing craft must use the lock until signaled that the pass is clear, and descending boats or tows desiring to go through the navigation pass must remain above the head of the lock until signaled to proceed.

(u) *Avoidance of dams.* When dams are raised all boats plying in upper pools, but not intending to enter lock, are forbidden to approach nearer to dams than a line extending across the river from the pile cluster fartherest upstream from lock.

(v) *Damage to construction work.* To avoid damage or hindrance by wave action to plant or structures connected with the construction or repair of locks and dams, during the time when such work is in actual progress, steamboats should regulate their speed between the lower line of such work (including plant) and a point 500 yards above the upper line of work. Between such limits, ascending boats will reduce their speed to not exceed 3 miles per hour, and descending boats will reduce their speed to 3 miles in excess of the current, which may be exceeded if the wheel is idle.

(w) *Complaints.* Complaints or other communications relating to the navigation of the Ouachita-Black River System or the maintenance and operation of the locks, dams, and bridges should be addressed to the U.S. Army Engineer District, Vicksburg, Vicksburg, Miss.

(x) *Vessels to carry regulations.* A copy of the regulations of this section will be furnished to masters of boats on application to lock officers.

[Regs. July 5, 1972, 1522-01 (Ouachita and Black Rivers, Arkansas-Louisiana) DAEN-CWO-N] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.72-11445 Filed 7-24-72;8:51 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

DUE PROCESS AND APPELLATE RIGHTS

On page 10745 of the FEDERAL REGISTER of May 27, 1972, there was published a notice of proposed rule making to issue a regulation concerning due process and appellate rights. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

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

Effective date. This VA regulation is effective the date of approval.

Approved: July 18, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

Section 3.103 of Part 3 of Title 38 is amended to read as follows:

§ 3.103 Due process—procedural and appellate rights with regard to disability and death benefits and related relief.

(a) *Statement of policy.* Proceedings before the Veterans Administration are ex parte in nature. It is the obligation of the Veterans Administration to assist a claimant in developing the facts pertinent to his claim and to render a decision which grants him every benefit that can be supported in law while protecting the interests of the Government. This principle and the other provisions of this section apply to all claims for benefits and relief and decisions thereon within the purview of this part.

(b) *Submission of evidence.* Any evidence whether documentary, testimonial, or in other form, offered by a claimant in support of a claim and any issue he may raise and contention and argument he may offer with respect thereto are to be included in the records.

(c) *Hearings.* Upon request a claimant is entitled to a hearing at any time on any issue involved in a claim within the purview of this part. The Veterans Administration will provide the place of hearing in the Veterans Administration office having original jurisdiction over the claim or at the Veterans Administration office nearest his home having adjudicative functions and will provide Veterans Administration personnel who have original determinative authority of such issues to be responsible for the preparation of the transcript; however, further expenses involved will be the responsibility of the claimant. The claimant is entitled to produce witnesses and all testimony will be under oath or affirmation. The purpose of such a hearing is to permit the claimant to introduce into the record in person any evidence available to him which he may consider material and any arguments and contentions with respect to the facts and applicable law which he may consider pertinent. It is the responsibility of the Veterans Administration personnel conducting the hearing to explain fully the issues and to suggest the submission of evidence which the claimant may have overlooked and which would be of advantage to his position. It is their further responsibility to establish and preserve the record. Because of this and to assure clarity and understanding therein, questions which are directed to the claimant and to witnesses are to be framed to explore fully the basis for claimed entitlement rather than with an intent to refute evidence and to discredit testimony. In cases in which the nature, origin, or degree of disability is in issue, the claimant may request visual examination by the physician designated by the Veterans Administration as a participant in the hearing and his observations will be read into the record.

(d) *Representation.* Within the provisions and criteria of §§ 14.626 through 14.663 of this chapter a claimant is entitled to representation of his choice at every stage in the prosecution of a claim.

(e) *Notification of decisions.* The claimant will be notified of any decision affecting the payment of benefits or granting relief. Notice will include the reason for the decision and the date it will be effectuated as well as the right to a hearing subject to paragraph (c) of this section. The notification will also advise the claimant of his right to initiate an appeal by filing a Notice of Disagreement which will entitle him to a Statement of the case for his assistance in perfecting his appeal. Further, the notice will advise him of the periods in which an appeal must be initiated and perfected. (See Part 19, Subpart B of this chapter on appeals.)

[FR Doc.72-11490 Filed 7-24-72;8:56]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

PART 126—MAIL ADDRESSED TO MILITARY POST OFFICES OVERSEAS

Conditions Prescribed by Defense Department

Section 126.2 of Title 39, Code of Federal Regulations, is revised in order to list therein all overseas military post offices, and to update restrictions applicable to certain military post offices.

Accordingly, § 126.2 is amended to read as follows:

§ 126.2 Conditions prescribed by the Defense Department applicable to mail addressed to certain military post offices overseas.

09001.. B-C-I[1]	09139.. B-C-D
09002.. B-C-I[1]	09140.. B-C-D
09008.. B-C-D	09141.. B-C-D
09009.. B-C-D	09142.. B-C-D
09011.. B-C	09144.. B-C-D
09012.. B-C-D	09146.. B-C-D
09013.. B-C-D	09149.. B-C-D
09019.. B-C-I[1]	09150.. A-B*-C
09020.. B	09154.. B-C-D
09023	09155.. A-B
09025.. B-C-D	09159.. B-C
09026.. B-C-D	09160.. B-C-D
09028.. B-C-D	09161.. B-C-I[1]
09029.. B-C-D	09162.. B-C-D
09031.. B-C-D	09164.. B-C-D
09033.. B-C-D	09165.. B-C-D
09034.. B-C-D	09166.. B-C-D
09035.. B-C-D	09168.. B-C-I[1][2]
09036.. B-C-D	09169.. B-C-D
09038.. B-F-I-R	09170.. C-D-N
09039.. B-C-D	09171.. B-C-D
09040.. A-B-F-I	09172.. B-C-D
09045.. B-C-D	09173.. B-C-D
09046.. B-C-D	09175.. B-C-D
09047.. B-C-D	09176.. B-C-D
09048.. A-B*-C	09177.. B-C-D
09050.. B-C-D	09178.. B-C-D
09051.. A-B-F-I	09179.. A-B*-C
09052.. B-C-D	09180.. B-C-D
09053.. B-C-D	09184.. B-C-D
09054.. B-C-D	09185.. B-C-D
09055.. B*	09189.. B-C-D
09056.. B-C-D	09193.. A-B*-C
09057.. B-C-D	09194.. A-B*-C
09058.. B-C-D	09205.. A-B
09059.. B-C-D	09210.. A-B*-C
09060.. B-C-D	09218.. A-B*-C
09061.. B-C-D	09220.. B-C-D
09066.. B-C-D	09221.. B-C-I[1][2]
09067.. B-C-D	09223.. A
09068.. B-C-D	09224.. A-B-F-I
09069.. B-C-D	09227.. B-C-D
09070.. B-C-D	09238.. A-B*-C
09074.. B-C-D	09240.. B-C-I[1]
09075.. A-B*-C	09245.. B-C-D
09078.. B-C-D	09252.. B-C-D
09079.. B-C-D	09253.. A
09080.. B-C-D	09254.. A-B-F-I
09081.. B-C-D	09277.. B-C-D
09082.. B-C-D	09281.. B-C-D
09085	09282
09086.. B-C-D	09283
09088.. B*	09284
09090.. B-C-D	09285
09091.. B-C-D	09286
09093.. B-C-D	09289.. A-B-F-I
09095.. B-C-D	09291.. A
09098.. B-C-D	09292.. B-C
09099.. B-C-D	09293.. B-C-I[1]
09101.. B-C-D	09294.. A-B-F-I
09102.. B-C-D	09305.. B-C-D
09107.. B-C-D	09319.. B-C-D
09108.. B-C-D	09320.. A-B-F-I
09109.. B-C-D	09322.. B-C-D
09111.. B-C-D	09324.. A-B-F-I
09114.. B-C-D	09326.. B-C-D
09120.. A-B*-C	09330.. B-C-D
09121	09332.. B-C-D
09123.. B-C-D	09333.. B-C-D
09125.. A-B*-C	09351.. B-C-D
09127.. A-B*-C	09352.. B-C-D
09128.. B-C-D	09353.. B-C-D
09130.. B-C-D	09360.. B-C-D
09131.. B-C-D	09378.. A-B*-C
09132.. B-C-D	09380.. A-B-F-I
09133.. A-B-F-I	09401
09137.. B-C-D	09403.. B-C-D
09138.. B-C-D	09405.. A-B*-C
09406	09887.. B-D-F-I-M-N
09407.. B-C-D	09889.. B-I-M-N
09411.. B-C-D	09891.. B-M-N
09451.. B-C-D	09892.. A-B-F-I
09452	09893.. C-F-H-I-M-N
09454	09895.. B-I-M
09501	09897
09502	09899.. B-I-M
09505	96201.. A-F
09510.. A-B*-C-J	96203.. A-F
09511.. A-B*-C-J	96204.. A-F
09512.. A-B*-C-J	96205.. A-F
09513.. A-C-D	96208.. A-B
09514.. A-C-D	96209.. A-B-H
09515.. A-B*-C-J	96210.. A-B-M
09516.. A-B*-C-I-J	96211.. A-B
09517.. A-C-D	96212.. A-B
09518.. A-B*-C-J	96213.. A-B
09520.. A-C-I	96215.. A-F
09521.. A-C-I[1]	96217.. A-F
09522.. A-C-I[1]	96218.. A-B
09523.. A-C-I[1]	96220.. A-B
09524.. A-C-I[1]	96221.. A-F
09525.. A	96222.. A-F
09526	96224.. A-B
09527.. A-N	96227.. A-F
09528.. A	96230.. L
09529.. A-C-I[1]	96231.. A-B
09530	96232
09531.. A-B-C-F-M	96233
09540	96234.. A-F
09544.. A-B-C-E	96235
09546	96236.. F
09550	96237
09551	96239
09552	96240.. A-F
09553	96243.. A-F
09554	96245
09555	96248
09556	96251.. A-B
09558	96256.. A-F
09559	96257.. A-F
09560	96258.. A-F
09571	96259.. A-B
09580.. B	96260.. A-F
09584.. B	96261
09585.. B	96263.. F[1]
09593	96264.. A-B
09597	96266.. A-F
09598	96267.. A-B-M
09607.. A-B*-C	96268.. A-F
09611.. B-C-D	96270.. A-B-M
09616.. B-F-I-R	96271.. A-B
09633.. B-C-D	96272
09659.. A-B*-C	
09662	96274.. K
09664.. N	96276.. A-B
09666.. B-C-D	96277.. K
09667.. B*	96280.. F[1]
09670.. B-C-I[1]	96281.. A-B-M
09672	96287.. A-B-H-Q
09676.. B-C-M	96288
09677	96290.. F[1]
09678.. B-I-N	96291.. A-F
09684.. B-C-D	96293.. F[1]
09689.. B-C-I[1]	96294.. A-F
	96295.. A-F
09690.. A	96296.. A-F
09692.. B-C-D	96297.. A-F
09693.. A	96298.. K
09696.. B-C-D	96299.. A-B-M
09697.. B-F-I-R	96301.. A-B
	96302.. A-B
09701.. B-C-D	96303
09702.. B-C-D	96304
09742.. B-C-D	96305
09743.. B-C-D	96307.. A-F
09751.. B-C-D	96308.. A-F
09755.. A-B*-C	96309.. A-F
09757.. B-C-D	96310
09777.. A-B-C-E	96312.. A-F
09794.. B-C-I[1]	96313.. B-H-M
09801.. B-C-D	96314.. A-F
09807.. B-C-D	96315
09825.. B	96316.. A-F
09826.. B	96318.. A-F
09827.. B	96319.. F[1]
09829.. B	96323.. A-B-M
09832.. B	96324.. A-B
09834.. B	96325.. A-F
09837.. B	96328.. A-B-M
	96330
09843.. B-C-D	96331
09845	96332.. A-F
09851	96333.. M
09860.. B-C-D	96334
09862.. N	96335.. A-B
	96336.. A-B-M
09865.. B-I-L-M	96337.. A-F
09867.. M	96338.. A-B-M
09869.. B-C-F-I-M-N	96339
09870.. C-D-N	96340.. F[1]
09871.. B-L-M	96341
09872.. B-C-D	96343.. A-B-M
09875.. B-M	96346
09879.. H-I-M-N	96347.. A-F
09880.. A-B-F-I-L	96348.. A-F
09881.. I-M	96349.. A-F
09883.. B-I-M-N	96352
09885.. M	96356

See footnotes at end of document.

96357.. A-F	96622
96358.. A-B	96624
96359.. A-F	96625.. A-F
96360.. F[1]	96626.. A-F
96363.. A-F	96627.. A-F
96364	96630
96365	96637
96369.. A-B-H-Q	96638.. A-F
96374.. A-F	96650.. F-K
96375.. A-F	96651.. F-K
96376.. A-F	96652.. F-K
96381.. A-F	96654.. F-K
96384.. A-F	96656.. F-K
96386	96658.. F-K
96388.. A-F	96659
96390.. A-B-M	96680.. A-B-H-Q
96392.. A-F	96690.. B-H
96397.. A-B	96692
96398.. A-F	96695.. A-F
96399.. A-F	96697.. A-F
96401	96699.. A-F
96402.. A-F	98703
96403.. A-B-H-Q	98704
96404.. A-B-H-Q	98706
96405.. A-B-H-Q	98709
96411.. A-B-M	98710
96421	98711
96430	98713
96435.. F[1]	98715
96436.. A-B	98716
96437.. A-B	98723
96438	
96455.. A-B	98731
96660.. A-B	98732
96468	98733
96483.. A-B	98736
96485	98737
96490.. A-F	98742
96491.. A-F	98745
96495.. A-F	98746
96496.. A-F	98747
96499.. A-F	98748
96501	98749
96502.. A-B-M	98750
96503.. A-B-M	98760.. A-B
96504.. A-B-M	98761.. A-B
96515	98762.. A-B
96519.. A-B-M	98764.. A-B
96525.. A-B-M	98765.. A-B
96528.. K	98766.. A-B
96530.. A-F	98767.. A-B
96545	98768.. A-B
96553	98769.. A-B
96555.. M	98770.. A
96556	98771
96557	98772.. A
96558	98773.. A
96570.. A-B	98774
96571.. A-B	98775
96594.. A-B-M	98776
96601	98781.. A-B
96602	98782.. A-B
96605.. O	98790
96610	98791
96611	98792
96612	98793
96613	98794
96614	98795
96615	98796
96617	98797
	98798
96620.. A-F	98799
96621.. A-F	

FOOTNOTES

A. No mail of any class may contain securities or currency. Precious metals in their raw, unmanufactured state are also prohibited. Official shipments are exempt from these restrictions.

B. Customs Declaration form required, except that prepaid mail from a contractor, addressed to a military organization for official use, Need Not bear Customs Declaration but must be endorsed "Contents For Official Use—Exempt from Customs Requirement. Official mail from Government agencies Does Not require customs declaration or exemption endorsement."

*Articles will be liable for customs duty and/or purchase tax unless they are bona fide gifts, personal use intended for military personnel or their dependents. When the contents of a parcel meet these requirements, the mailer should place a certificate similar to the following on the customs form under the heading—"Description of Contents" "Certified to be a bona fide gift, personal effects or items for personal use of military personnel and dependents thereto."

C. Cigarettes and other tobacco products prohibited.

D. Coffee prohibited.

E. Mail may not contain: 1. Medicines or vaccines not conforming to French laws. 2. Nonauthorized publications, reprints, and publications prohibited on account of their political character or immoral contents.

F. Mail of all classes may not contain firearms of any type. See definition of firearms in 124.5.

F.[1] No mail of any class may contain privately owned weapons addressed to an individual.

G. To be printed at a later date.

H. Meats, including preserved meats, whether hermetically sealed or not, are prohibited.

I. Mail of all classes may not exceed the following dimensions:

Length	
42"	72" length and girth combined.
Over 42" to 44"	24" girth.
Over 44" to 46"	20" girth.
Over 46" to 48"	16" girth.

Maximum length 48".

[1] Provisions of this footnote are not applicable to registered mail.

[2] Provisions of this footnote are not applicable to airmail nor to official Government mail marked MOM.

J. Weight for other than registered mail is restricted to 50 pounds.

K. Mail which includes in the address the words "Dependent Mail Section" may consist only of letter mail, newspapers, magazines and books. No parcel of any class containing any other matter may be mailed to Dependent Mail Section. This footnote is not applicable if the address does not include the words "Dependent Mail Section."

L. All official mail prohibited.

M. Fruits, animals, and living plants are prohibited.

N. No registered mail accepted.

O. Personal mail addressed to vessels using this number is limited to unregistered airmail, unregistered first-class mail, and certified mail. Other classes of mail may not be accepted.

P. APO will be used for the receipt and dispatch of official registered mail only.

Q. Mail may not exceed 66 pounds and size is limited to 42 inches maximum length and 72 inches maximum length and girth combined.

R. All alcoholic beverages, including those mailable under § 123.3 are prohibited.

(39 U.S.C. 401)

LOUIS A. COX,
General Counsel.

[FR Doc.72-11437 Filed 7-24-72;8:50 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

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

Aldicarb

A petition (PP 2F1188) was filed by the Union Carbide Corp., 800 Wyatt Building, Washington, DC 20005, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the insecticide and nematocide aldicarb (2-methyl-2-(methylthio) propionaldehyde *O*-(methylcarbamoyl) oxime) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl) propionaldehyde *O*-(methyl-carbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl) oxime in or on the raw agricultural commodities sugarcane fodder and forage at 0.2 part per million and sugarcane and sweet potatoes at 0.02 part per million (negligible residue).

Subsequently, the petitioner amended the petition by reducing the proposed 0.2 part per million tolerance on sugarcane fodder and forage to 0.1 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The pesticide is useful for the purpose for which the tolerances are being established.

2. The established tolerances for residues of aldicarb and its cholinesterase-inhibiting metabolites in meat and milk are adequate to cover any residues resulting from the proposed use of this pesticide and § 180.6(a)(2) applies. There is no reasonable expectation of residues in eggs and poultry and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.269 is amended by revising the introductory paragraph, the paragraph "0.1 part per million * * *", and by inserting a new paragraph after the paragraph "0.05 part per million * * *", as follows:

§ 180.269 Aldicarb; tolerances for residues.

Tolerances are established for combined residues of the insecticide and nematocide aldicarb (2-methyl-2-(methylthio) propionaldehyde *O*-(methyl-carbamoyl) oxime) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl) oxime in or on raw agricultural commodities as follows:

* * * * *

0.1 part per million in or on cottonseed and sugarcane fodder and forage.

* * * * *

0.02 part per million (negligible residue) in or on sugarcane and sweet potatoes.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are sup-

ported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (7–25–72).

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

Dated: July 19, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–11438 Filed 7–24–72;8:50 am]

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

Bromoxynil

A petition (PP OFO994) was filed jointly by Amchem Products, Inc., Ambler, Pa. 19002 and Rhodia, Inc., Chipman Division, 120 Jersey Avenue, New Brunswick, NJ 08903, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing the establishment of a tolerance for negligible residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) from the application of its octanoic acid ester in or on the raw agricultural commodities flaxseed and the forage and grain of barley, oats, rye, and wheat at 0.1 part per million.

Subsequently, the petitioner amended the petition by proposing the establishment of a tolerance for negligible residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) from the application of its octanoic acid ester in or on the raw agricultural commodities grain, green forage, and straw of barley, oats, rye, and wheat; flaxseed and flax straw; and in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerance is established.

2. The proposed tolerance is adequate to cover residues in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep and § 180.6(a)(2) applies.

There is no reasonable expectation of residues in eggs, milk, and poultry and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), the following new section is added to Subpart C of Part 180 as follows:

§ 180.324 Bromoxynil; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) from the application of its octanoic acid ester in or on the raw agricultural commodities grain, green forage, and straw of barley, oats, rye, and wheat; flaxseed and flax straw; and in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (7–25–72).

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

Dated: July 19, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–11439 Filed 7–24–72;8:50 am]

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

Maneb

A petition (PP 2F1257) was filed by Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing reduction of the established tolerance (40 CFR Part 180) for residues of the fungicide maneb (manganous ethylenebisdithiocarbamate) in or on the raw agricultural commodity bananas to 4 parts per million, of which not more than 0.5 part per million shall be in the pulp after peel is removed and discarded, and restriction of use to preharvest application.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The pesticide is useful for the purpose for which the reduced tolerance is being established.

2. The reduced tolerance established by this order will better protect the public health than the tolerance it is replacing.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.110 is amended by deleting the paragraph "15 parts per million * * *" and by revising the paragraph "4 parts per million * * *" to read as follows:

§ 180.110 Maneb; tolerances for residues.

* * * * *

Four parts per million in or on bananas (not more than 0.5 part per million shall be in the pulp after peel is removed and discarded (preharvest application only), cucumbers, melons, summer squash, tomatoes, and winter squash.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (7–25–72).

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

Dated: July 19, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–11440 Filed 7–24–72;8:50 am]

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

Methomyl

A petition (PP 2F1245) was filed by E. I. du Pont de Nemours & Co. Inc., Wil-

mington, DE 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for negligible residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl) oxy]thioacetimidate) in or on the raw agricultural commodities cucurbits at 0.2 part per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The pesticide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.253 is amended by revising the paragraph "0.2 part per million * * *", as follows:

§ 180.253 Methomyl; tolerances for residues.

* * * * *

0.2 part per million (negligible residue) in or on the commodity groups cucurbits, fruiting vegetables, leafy vegetables (except cabbage, endive (escarole), and lettuce), root crop vegetables, and soybeans.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (7–25–72).

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

Dated: July 19, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–11441 Filed 7–24–72;8:50 am]

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

2-Chloro-1-(2,4,5-Trichlorophenyl) Vinyl Dimethyl Phosphate

Correction

In F.R. Doc. 72–10439, appearing at page 13471, in the issue of Saturday, July 8, 1972, the fourth line in the first paragraph now reading "lishment of tolerances for residues of", should read "20006, in accordance with provisions of".

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3–3—PROCUREMENT BY NEGOTIATION

Procurement Planning

Part 3, Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The purpose of this amendment is to prescribe the requirement for procurement planning and the contents of the procurement plans.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to participate in the rule making process. However, the amendment herein involves internal administrative procedures. Therefore, the public rule making process is deemed unnecessary in this instance.

1. The following is added to the table of contents:

Subpart 3–3.50—Procurement Planning

Sec.
3–3.5000 Scope of subpart.
3–3.5001 Requirement for procurement planning.
3–3.5002 Responsibilities for procurement planning.
3–3.5003 Preparation and contents of procurement plan.
3–3.5004 Procurement planning document.

AUTHORITY: The provisions of this Subpart 3–3.50 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. The added subpart will read as follows:

Subpart 3–3.50—Procurement Planning

§ 3–3.5000 Scope of subpart.

This subpart prescribes (a) planning for all negotiated procurements as required by § 3–3.5001 below and (b) contents of the procurement plan. The procurement plan is an administrative tool designed to enable the contracting officer and the project officer to plan effectively for the accomplishment of procurements during a specified time frame. The procurement plan serves as an outline of the method by which the contracting officer expects to accomplish the procurement task.

§ 3–3.5001 Requirement for procurement planning.

(a) The procurement plan is required for all new procurements which are expected to exceed $100,000, except the following:

(1) Procurements of architect-engineer services;

(2) Procurements of utility services where the services are available from only one source;

(3) Procurements made from or through other Government agencies.

(b) Any preparation of procurement plans for new procurements, which are not expected to exceed $100,000, shall be in accordance with the procedures of each operating agency. Procurement plans will be prepared for procurements which are two-step formally advertised procurements or set-asides over $100,000.

§ 3–3.5002 Responsibilities for procurement planning.

(a) *Planning by program and staff activities.* (1) Whenever execution of a program or project requires the acquisition of property or services by contract the program or project plan should delineate all elements to be acquired by contract. Such program or project plans include a plan and time-frame for completion action. (See § 3–1.452–2.)

(2) Planning for procurement action should commence as early as possible in the fiscal year. Program offices which expect to initiate procurements are required to meet at the beginning of each fiscal year with the procurement officials who will be responsible for these procurements in order to discuss current staff capabilities and anticipated requirements in an effort to achieve an even distribution of workload over the fiscal year consistent with program needs. These meetings should result in understandings as to expected timing of project development and procurement requests.

(3) For each project, as soon as it appears likely there will be a procurement, the program office will notify the appropriate procurement office of the anticipated procurement. When notified, the procurement office will arrange to meet with the program staff in order to develop a plan for procurement.

(b) *Planning by procurement activities.* Procurement activities will coordinate with program and staff offices in order to ensure:

(1) Timely and comprehensive planning for procurement;

(2) Timely initiation of procurement requests or requests for contracts; and,

(3) Instruction of program and staff offices in proper procurement practices and methods.

§ 3–3.5003 Preparation and contents of procurement plan.

(a) The procurement plan (1) serves as an advance agreement between program and contracting personnel outlining the methods of how and when the procurement is to be accomplished; (2) serves to resolve problems early in the

procurement cycle thereby precluding delay in contract placement; and (3) is developed prior to the preparation and submission by the program office of the formal procurement request and request for contract to the contracting office.

(b) Procurement plans shall be prepared and signed jointly by the cognizant contract negotiator and project officer and concurred in by the contracting officer. The scope of the procurement plan is determined by the characteristics of the procurement. Generally a joint planning meeting between the project officer and contract negotiator is held for the purpose of identifying and selecting those actions (technical and business) necessary to effect timely and proper placement of the contract. The project officer defines his requirement and describes the purpose of the project. Based on these needs, consideration shall be given to such matters as (1) refinement of work statements, scopes of work, specifications, etc., for solicitation purposes; (2) funding; (3) sources for solicitation and synopsizing requirements; (4) proposal evaluation criteria; (5) special program approvals and clearances including determination and findings; and (6) procurement planning schedule. Details concerning the aforementioned factors are contained in Section I of the pamphlet entitled "The Negotiated Contracting Process—A Guide for Project Officers" which is available for use by all DHEW Project Officers. (See § 3–1.452–1 (d).)

§ 3–3.5004 Procurement Planning Document.

The Procurement Planning Document HEW Form 592 shall be used in planning for the procurement. One copy of the approved procurement planning document shall be made a part of the contract file. HEW Form 592 is illustrated in HEWPR 3–16.950–592.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (7–25–72).

Dated: July 19, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

[FR Doc.72–11497 Filed 7–24–72;8:56 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1103]

PART 1033—CAR SERVICE

Texas and Pacific Railway Co. Authorized To Operate Over Tracks of St. Louis-San Francisco Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of July 1972.

It appearing, that extensive rehabilitation of the line of the Texas and Pacific Railway Co. (T&P) between Henryetta, Okla., and Durant, Okla., is necessary; that full operation of T&P trains over this line during the reconstruction period is impractical; that operation of T&P trains over the St. Louis-San Francisco Railway Co. (SL–SF) between Henryetta, Okla., and Staley, Okla., a distance of approximately 149 miles, will enable the T&P to continue to provide through service between Henryetta, Okla., and Staley, Okla.; that the SL–SF has consented to use of its aforementioned line by the T&P; that the T&P will continue to provide service to shippers located on its line between Henryetta, Okla., and Staley, Okla.; that there is need for the T&P to operate over the aforementioned trackage of the SL–SF to provide the service required in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1103 Service Order No. 1103.

(a) *The Texas and Pacific Railway Co. authorized to operate over tracks of St. Louis-San Francisco Railway Co.* The Texas and Pacific Railway Co. (T&P) be, and it is hereby, authorized to operate over tracks of the St. Louis-San Francisco Railway Co. (SL–SF) between Henryetta, Okla., and Staley, Okla., a distance of approximately 149 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the T&P over tracks of the SL–SF is deemed to be due to carrier's disability, the rates applicable to traffic moved by the T&P over these tracks of the SL–SF shall be the rates which were applicable on the shipments at the time of shipments as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., July 31, 1972.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–11476 Filed 7–24–72;8:54 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 141, 152, 159]

MERCHANDISING DUTIES

Proposed Entry, Examination, Sampling, Testing, Classification, Appraisement and Liquidation

Correction

In F.R. Doc. 72-9736 appearing at page 12805 of the issue for Thursday, June 29, 1972, the following changes should be made:

1. In § 141.20, paragraph (c) is printed twice; the first should be deleted and the following substituted to complete paragraph (b): "actual owner is a nonresident, the actual owner's declaration and superseding bond shall not be accepted unless the superseding bond has a resident corporate surety."

2. In § 152.14(a), the tenth line, now reading "provided in paragraph (4) of this", should read: "shall be accompanied by a sample of the".

3. The following changes should be made in the Parallel Reference Table:

a. In the table in the center column of page 12847 which shows the relation of sections in proposed Part 141 to 19 CFR Part 8, the 18th figure from the bottom in the left-hand column, now reading "141.40", should read "141.41".

b. The table showing the relation of sections in proposed Part 152 to 19 CFR Parts 8, 14, and 16 should read as set forth below.

(This table shows the relation of sections in proposed Part 152 to 19 CFR Parts 8, 14, and 16)

Proposed Part 152 Section	*19 CFR Section*
152.0	New.
152.1(a)	14.3(c) and footnote 6.
152.1(b)	Part 14, footnote 6.
152.1(c)	14.3(b).
152.2	8.29(c).
152.3	16.7
152.11	New.
152.12	New.
152.13(a)	16.9(b).
152.13(b)	16.9(a).
152.13(c)	16.9(a) and (c).
152.13(d)	16.9(a).
152.14(a)	16.10a(a).
152.14(b)	16.10a(b).
152.14(c)	16.10a(c).
152.14(d)	16.10a(c).
152.15(a)	16.10(a), 16.10a(c) and (d), and footnote 11a.
152.15(b)	16.10(b).
152.15(c)	16.10(c).
152.16(a)	16.10(d).
152.16(b)	16.10(e).
152.16(c)	16.10(f).
152.16(d)	New.
152.16(e)	16.10(g).
152.17	16.10(h).
152.21(a)-(c)	14.3(a).
152.22	14.3(c).
152.23	14.3(d) and footnote 7.
152.24(a) and (b)	New.
152.25	14.3(f).
152.26(a)	14.4(a).
152.26(b)	14.4(b).
152.26(c)	14.4(c).
152.26(d)	14.4(d).
152.26(e)	14.4(e).
152.31(a)	New.
152.31(b)	New.
152.31(c)	14.5(l).
152.32	14.5(h).
152.33	14.5(j).
152.34	14.5(c).
152.35	14.5(a).
152.36	14.5(k).
152.37	14.5(d).
152.38	14.5(e) and (b).
152.39	14.5(i).
152.40	14.5(f).
152.41	14.5(m) and footnote 13.
152.42(a)-(c)	14.5(n).
152.43	14.5(o).

c. In the table on page 12849 which shows the relation of sections in proposed Part 159 to 19 CFR Parts 12, 16, 18, the eighth figure in the right-hand column, now reading "16.12(c).", should read "16.2(c)."

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 947]

IRISH POTATOES GROWN IN CERTAIN COUNTIES IN CALIFORNIA AND OREGON

Proposed Expenses, Rate of Assessment, and Late Payment Charges

Consideration is being given to the approval of proposed expenses and a proposed rate of assessment as hereinafter set forth which were recommended by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114, as amended, and Order No. 947, as amended (7 CFR Part 947).

This marketing order program regulates the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon, except Malheur County, 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, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 15th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)). The proposals are as follows:

§ 947.225 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1973, by the Oregon-California Potato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $36,405.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be one-half of 1 cent ($0.005) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal period: *Provided*, That seed potatoes shall be exempt and potatoes for canning, freezing, and other processing are mandatorially exempted by the Act.

(c) In accordance with the provisions of § 947.41, late payment charges of $1 per month or 1 percent per month, whichever is greater, shall be charged on the unpaid balance for each past-due account. An account is past due 60 days after the billing date.

(d) Unexpended income in excess of expenses for the fiscal period ending June 30, 1973, may be carried over as a reserve.

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

Date: July 19, 1972.

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

[FR Doc.72-11435 Filed 7-24-72;8:51 am]

[7 CFR Parts 1006, 1012, 1013]

[Dockets Nos. AO 356-A10, AO 347-A14, AO 286-A22]

MILK IN THE UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Notice of Recommended Decision (Partial) and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given of the filing with the hearing clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the

Upper Florida, Tampa Bay, and Southeastern Florida marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Orlando, Fla., on May 24, 1972, pursuant to notice thereof which was issued on May 9, 1972 (37 F.R. 9565).

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

1. Revision of the location adjustments of Orders 6, 12, and 13.
2. Change of pricing point on diverted milk under Orders 12 and 13.
3. Elimination of the mileage limitation on transfers and diversions of Class II milk to nonpool plants under Order 13.
4. Revision of order format for all three orders.
5. Adoption of a Class II classification for cream and cream products under all three orders.

This is a partial decision dealing only with issues 1, 2, 3, and 4. Proponents of issue 5 were primarily concerned with changes in classification commensurate with amendments now under consideration for 40 other orders. Since the outcome of those proceedings is not known at this time, consideration of this issue is postponed until after their completion.

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. *Location adjustments.* The location adjustment provisions in the three Florida milk orders should be restructured so that the Class I price applicable at any particular location within the State will be the same under each of the respective orders. To accomplish this objective, three pricing zones encompassing the State of Florida should be designated under each of the orders.

The basic prices under the respective orders are presently in general alignment, the differences reflecting the difference in cost of transporting milk from alternative supply sources. Hence, the Upper Florida Class I price is the lowest, 10 cents below Tampa Bay and 30 cents below Southeastern Florida.

The Southeastern Florida order (Order 13) provides location adjustments applicable at any plant location north of, and 80 miles or more from, the U.S. Post Office in West Palm Beach. Both the Class I price and the uniform price payable to producers are reduced by 13 cents for a plant located 80–90 miles from West Palm Beach, and the prices for more distant plants are reduced an additional 1.5 cents for each 10-mile distance or fraction thereof in excess of 90 miles. Under the Tampa Bay order (Order 12), price adjustments apply to any plant located north of Pinellas, Hillsboro, Polk, or Osceola Counties, and 70 or more miles from the city hall in Tampa. Prices are reduced at the rate of 10 cents per hundredweight plus an additional 1.5 cents for each 10 miles, or fraction thereof, in excess of 85 miles from the city hall in Tampa.

The Upper Florida order (Order 6) applies location adjustments based on mileage distances only to plants located outside the State of Florida. The Class I and blend prices for plants outside the State and 70 miles or more from the nearer of the city hall in Jacksonville or the city hall in Tallahassee are reduced 10 cents, plus an additional 1.5 cents for each 10 miles, or fraction thereof, in excess of 85 miles. For any plant located within the State and south of a line forming the southern boundary of the counties of Dixie, Gilchrist, Alachua, Putnam, and St. Johns, a plus-10-cent-location adjustment is applicable.

A revision in the location adjustment provisions of the three orders in the manner herein adopted was jointly proposed by cooperatives representing the majority of producers under the three orders and was supported at the hearing by several major handlers. The proposal was made to correct an aberration in pricing that can result from the application of the present order provisions.

The problem did not manifest itself until a plant formerly regulated under the Upper Florida order became regulated under the Tampa Bay order and, solely by virtue of the location adjustment provisions of that order, obtained a 16-cent reduction in its Class I price.

Similarly, a plant located just outside the city of Miami and regulated under the Southeastern Florida order was shifted to regulation under the Tampa Bay order because of increased sales there and, as a result, obtained a 20-cent reduction in its Class I price.

In establishing a 10-cent higher price for the southern portion of the Upper Florida market (and locations south of the marketing area), the Assistant Secretary found as follows (31 F.R. 13272):

> Distributing plants at Orlando, the major distribution center in the southern part of the area, compete with Tampa Bay order plants for milk supplies and sales. Also, Orlando handlers have some competition for sales with Southeastern Florida order handlers. Tampa Bay and Southeastern Florida Class I prices, f.o.b. Orlando, are about the same as the proposed Upper Florida Class I price at that plant. This pricing scheme will provide a price alignment with respect to Orlando area handlers and handlers to the north and south of that vicinity commensurate with the prevailing competitive situation.

With the Tampa Bay order Class I price 10 cents higher than the Upper Florida basic Class I price, the plus-10-cent-location adjustment seemingly provided Order 6 handlers in the southern portion of the market, or south thereof, the same Class I price as similarly located Order 12 handlers. Actually, however, the location adjustment provisions of the Tampa Bay order provided an 11.5-cent price adjustment at Orlando.

A spokesman for the Upper Florida Milk Producers Association testified that this adjustment of the Order 12 prices jeopardizes orderly marketing in this area. The cooperative generally supplies handlers regulated under the Upper Florida order. One of its customers is a substantial handler whose plant is located in Orange City (Volusia County), where the plus-10-cent-location adjustment is applicable to plants regulated under the Upper Florida order. This plant has broad distribution over much of the State, but its principal distribution is within the Upper Florida and Tampa Bay markets. A loss or gain of sales can and does cause this plant to shift regulation from Order 6 to Order 12, or vice versa. Prior to June 1971, the plant was continuously regulated under Order 6. Since that time and through April 1972, however, because of a fluctuating sales pattern, the plant has been regulated under Order 6, 6 months and under Order 12, 5 months.

When regulated under Order 6, the plant is obligated to pay the Class I price under that order applicable at Orange City, which includes the plus-10-cent-location adjustment. Thus, its Class I price is the same as the Order 12 Class I price applicable at Tampa. When regulated under Order 12, the plant's applicable price reflects a minus-16-cent-location adjustment. In this situation, its Class I price obligation and its applicable blend price payable to producers are both reduced by 16 cents.

A somewhat analogous situation has been encountered in the Southeastern Florida market. A plant located in Dade County and with substantial Class I sales in both the Order 12 and Order 13 markets has, because of a fluctuating sales pattern, frequently shifted regulation between the two orders. In the 61-month period since this plant began operations (April 1967), it has been pooled under Order 12 in 15 months, and under Order 13 in the remaining 46 months.

When the plant is pooled under Order 12, its applicable Class I price is 20 cents per hundredweight less than that applicable when it is regulated under Order 13. The plant obtains its milk supply from Tampa Independent Dairy Farmers Association, Inc. (TIDFA), and from Independent Dairy Farmers Association (IDFA) proportionately to its Class I sales in the Tampa Bay and Southeastern Florida markets, respectively.

A spokesman for TIDFA testified that the association's commitment for supplying milk to this plant was made when the plant was regulated under Order 13. At that time, there was no expectation that regulation of the plant would be shifted to Order 12, and hence, the agreement specified that milk would be furnished at order prices. Under present circumstances, therefore, the handler's Class I price and payments to TIDFA member producers reflect the Order 13 prices when the plant is regulated under that order, and the lower Tampa Bay prices when regulated under that order. In contrast, IDFA, in accordance with its contract with the handler, receives a 20-cent premium on the milk that it furnishes the handler when his plant is regulated under Order 12.

The TIDFA spokesman pointed out that, when this plant is regulated under Order 13, the 20-cent higher Class I price, which is reflected in a higher uniform price, remunerates its members for the added cost of hauling milk to the Miami area. When the plant is regulated under Order 12, the effect is that producers lose the cost of this transportation. He suggested that, unless the orders are amended to remedy this situation, the cooperative would necessarily have to seek alternative, more remunerative, outlets. In that case, he pointed out, the handler's alternative supply would necessarily be from producers (IDFA) whose milk is normally priced under the Southeastern Florida order. The handler's cost for milk would be the Order 13 price, regardless of the order under which he is regulated, since IDFA receives a 20-cent premium for milk sold to this handler when his plant is regulated under Order 12.

The three Florida markets are unique in that they are totally isolated from outside influences to the east and south by the Atlantic Ocean and to the west by the Gulf of Mexico. To a large extent, the production areas of the three markets are coextensive with producers being so located that they have general accessibility to any of these markets. Institutional factors, specifically cooperative affiliation, are a basic factor directing the flow of milk.

Each of the markets uses a high percentage of its producers' receipts in Class I. In 1971, Tampa Bay, Southeastern Florida, and Upper Florida had an average Class I utilization of 89 percent, 91 percent, and 93 percent, respectively. During the fall and winter months, the Class I utilization is substantially higher (above 95 percent) in all three of these markets, necessitating the importation of milk from outside the State to supplement the local sources of supply.

Because the markets are generally in relatively tight supply, precise interorder price alignment is essential to a continuing adequate supply of milk for plants at each location within the State.

As previously stated, these markets are substantially interrelated with respect to handlers' sales areas. A number of handlers have distribution in two or more of the markets. For some plants, any minor change in sales in a particular market can and does result in a shift of regulation from one order to another.

The shift in regulation in no way changes producers' production costs or cost of moving milk from the farm where produced to the plant location. The basic problem with which we are here faced is one of providing a price at each plant location that will draw the needed milk supply regardless of the order of regulation of that plant. Under current marketing conditions, this can best be accommodated through the adoption of three identical pricing zones within the State under the respective orders.

One zone should encompass the northern portion of the Upper Florida market and the four unregulated northwestern Florida counties of Escambia, Santa Rosa, Okaloosa, and Walton, all that territory within the State where the base Class I price under the Upper Florida order now applies. This price would continue to apply in this area under the Upper Florida order. Under the Tampa Bay order, the area would be subject to a minus-10-cent adjustment, and under Southeastern Florida, to a minus-30-cent adjustment.

Another zone should encompass the territory included in the Tampa Bay marketing area and the southern portion of the Upper Florida order where the price is presently 10 cents above the base Upper Florida price. Under the Upper Florida order, this area would be subject to a plus-10-cent-location adjustment and under the Southeastern order, to a minus-20-cent-location adjustment.

The final zone should encompass that territory included in the Southeastern Florida marketing area. Under the Upper Florida order, this area would be subject to a plus-30-cent-location adjustment and under the Tampa Bay order, to a plus-20-cent-location adjustment.

The structuring of the location adjustments in the manner here adopted will provide continuity in the Class I prices and, under current marketing conditions, in producer returns under the respective orders at each plant location within the State. The resulting values are directly related to the costs of obtaining alternative milk supplies from out-of-State area sources. Since such milk must move from north to south, it is appropriate that Class I prices under the three orders increase from north to south, in direct relation to the increased transportation cost. This is the present general structure of prices under these orders, and this decision will have minimal impact with respect to prices handlers pay for milk for Class I use.

The modification in the application of location adjustments will remove a source of inequity among Florida producers that has resulted from time to time from shifting regulation of plants. At the same time, it will better insure handlers competing for supplies and sales in the same geographic locations equal product costs under the terms of the orders and thus remove a potential source of market instability which could otherwise result.

Location adjustments applicable to plants located outside the State of Florida should be modified slightly with respect to Orders 12 and 13.

Order 12 currently provides a minus-10-cents-location adjustment to plants 70 to 85 miles from Tampa, and an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 85 miles from the Tampa city hall. Since location adjustments to plants within the State of Florida will not be determined on the basis of mileage under the proposed location adjustment, and since it is impossible to have a plant outside the State of Florida within 70 to 85 miles of Tampa, the present order language is superfluous. Location adjustments to plants outside the State of Florida appropriately should be computed at the rate of 1.5 cents for each 10 miles or fraction thereof such plant is from the Tampa city hall.

Order 13 should be similarly revised since there can be no plant outside the State of Florida within 80 to 90 miles of West Palm Beach. The Order 13 location adjustments applicable to plants outside of Florida should be computed at the rate of 1.5 cents for each 10 miles or fraction thereof such plant is from the U.S. Post Office in West Palm Beach. This procedure will result in essentially the identical pricing prescribed by the respective orders for out-of-State locations and, at the same time, remove the ambiguity that could result in the absence of this change.

No change is necessary in the application of location adjustments to out-of-State plants with respect to Order 6.

2. *Pricing point on diverted milk.* The Tampa Bay and Southeastern Florida orders should be amended to provide that, for purposes of pricing only, milk diverted from a pool plant to a nonpool plant, either for the account of a handler as the operator of a pool plant or for the account of a cooperative association in its capacity as a handler, shall be treated as a receipt at the plant to which diverted. Unlike the Upper Florida order, these two orders now price diverted milk at the plant from which diverted, rather than at the plant to which diverted.

Cooperative proponents representing the majority of producers requested this change in pricing of diverted milk, and there was no opposition expressed either at the hearing or in briefs.

Most of the Order 12 and Order 13 producer milk in excess of Class I requirements is diverted to nonpool plants at nearby locations within the basic pricing zones where no location adjustments are applicable. Thus, a change in the point of pricing on this milk will not affect the pool obligation of the diverting handler or the uniform price received by producers.

When diverted milk is priced at the plant from which diverted, there is always the incentive for association of distant milk with local plants in the market even though such milk is not needed for fluid use, is not a part of the market's regular supply, and is intended for manufacturing uses. If dairy farmers

relatively distant from the market have their milk diverted to a nonpool plant near their farms and receive a uniform price based on the location of a pool plant in the marketing area, such farmers are compensated as if their milk had incurred the expense of delivery all the way to the market center.

We find no reason why milk diverted from a pool plant to a nonpool plant at any particular location under usual circumstances should draw a higher return from the market pool than milk received at a pool plant at the same location.

3. *Transfers and diversions to nonpool plants.* Order 13 presently contains a provision that requires an automatic Class I classification of fluid milk products transferred or diverted to nonpool plants located more than 500 miles from West Palm Beach, Fla.

As originally adopted and applied, this provision was intended to provide an automatic Class I classification for fluid milk products transferred distances beyond that which milk could economically be moved for manufacturing use. With modern technology, better roads, and improved facilities for moving large quantities of milk in bulk, plants at distant locations from the market may, at times, be the most practicable and economically feasible outlets for fluid milk not needed in the market for Class I purposes.

Moreover, with the many Federal order markets now in existence, almost any nonpool plant to which shipment might be made from the Southeastern Florida market can be audited without undue expense. Therefore, there is no longer compelling reason for continuation of the mandatory Class I classification for milk moved in excess of 500 miles.

The order, consequently, should be modified to provide that milk transferred or diverted to nonpool plants in excess of 500 miles distance be classified on the same basis as milk moved a lesser distance; i.e., as Class I, unless the handler claims Class II, and the operator of the nonpool plant maintains books and records showing the utilization of the milk received, and such records are made available to the market administrator.

4. *Order format.* The order format of each of the three Florida orders should be revised to result in a more compact order and a more precise grouping of related order provisions. In addition to redesignation of section numbers (and codified subunits), certain changes have been made in section titles, introductory paragraphs, and section content. In making these modifications, which conform with a general order format proposed for all orders, no change is intended either in the intent or application of any provisions so affected.

The need for rearrangement of the order provisions in large part reflects the cumulative effect of past amendments that have resulted in a number of unused subunits which disrupt the continuity of the order. The redesignation of codified units will also accommodate future changes in the order.

Rulings on Proposed Findings and Conclusions

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

General Findings

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

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

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

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

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

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1006—MILK IN UPPER FLORIDA MARKETING AREA

General Provisions

Sec.

General Provisions

§ 1006.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby

incorporated by reference and made a part of this order.

DEFINITIONS

§ 1006.2 Upper Florida marketing area.

The "Upper Florida marketing area", hereinafter called the "marketing area", means all the territory geographically within the boundaries of the following counties, all in the State of Florida, including all waterfront facilities connected therewith and all territory wholly or partly therein occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments.

Alachua.	Lafayette.
Baker.	Lake.
Bay.	Leon.
Bradford.	Levy.
Brevard.	Liberty.
Calhoun.	Madison.
Citrus.	Marion.
Clay.	Nassau.
Columbia.	Orange.
Dixie.	Osceola.
Duval.	Putnam.
Flagler.	St. Johns.
Franklin.	Seminole.
Gadsden.	Sumter.
Gilchrist.	Suwannee.
Gulf.	Taylor.
Hamilton.	Union.
Holmes.	Volusia.
Jackson.	Wakulla.
Jefferson.	Washington.

§ 1006.3 Route disposition.

"Route disposition" means a delivery (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor, or vending machine) of a fluid milk product classified as Class I milk.

§ 1006.4 [Reserved]

§ 1006.5 Distributing plant.

"Distributing plant" means a plant:

(a) That is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which there is route disposition of any fluid milk product during the month in the marketing area; or

(b) That processes or packages filled milk and from which there is route disposition of filled milk during the month in the marketing area.

§ 1006.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority or filled milk is shipped during the month to a pool plant.

§ 1006.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which not less than 50 percent of the total Grade A fluid milk products, except filled milk, received at the plant during the month is disposed of as route disposition except as filled milk and not less than 10 percent of such receipts is disposed of in the marketing area as route disposition except as filled milk; or

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant meets the requirements of paragraphs (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than in the marketing area regulated pursuant to such other order.

§ 1006.8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Exempt distributing plant" means a distributing plant operated by a governmental agency.

(d) "Partially regulated distributing plant" means a nonpool plant that is a distributing plan and is not an other order plant, a producer-handler plant or an exempt distributing plant.

(e) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

§ 1006.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(c) A cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1006.10 Producer-handler.

"Producer-handler" means any person who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1006.11 [Reserved]

§ 1006.12 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act or the operator of an exempt distributing plant, who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1006.13 from a pool plant to a nonpool plant.

§ 1006.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer or a handler described in § 1006.9(c): *Provided*, That if the milk received at a pool plant from a handler described in § 1006.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler

described in § 1006.9(c) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant for the account of the pool plant operator or a cooperative association in any month in which not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant, subject to the following:

(1) Milk so diverted from the account of a handler operating a pool plant shall be deemed to have been received by the handler at the plant to which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the cooperative association at the location of the plant to which diverted;

(2) If diverted from the pool plant of another handler for the account of a cooperative association, the aggregate quantity of milk or member producers of the cooperative association so diverted that exceeds 25 percent of the milk physically received from member-producers at pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) If diverted by a handler operating a pool plant for his account, the aggregate quantity of producer milk so diverted that exceeds 25 percent of the aggregate quantity of milk physically received from producers at such plant during the month shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (2) and (3) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1006.14 Other source milk.

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

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

(3) Fluid milk products in inventory at the beginning of the month;

(b) Products other than fluid milk products 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

(c) 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.

§ 1006.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

§ 1006.16 [Reserved]

§ 1006.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1006.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of or marketing milk or milk products for its members.

HANDLER REPORTS

§ 1006.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler (except a handler described in § 1006.9 (e) or (f)) shall report to the market administrator for such month with respect to each plant at which milk is received or at which filled milk is processed or packaged, reporting in detail and on forms prescribed by the market administrator;

(a) The quantities of skim milk and butterfat contained in or represented by:

(1) Producer milk (or, in the case of handlers described in § 1006.9 (d), Grade A milk received from dairy farmers);

(2) Fluid milk products received from pool plants of other handlers;

(3) Other source milk;

(4) Milk diverted to nonpool plants pursuant to § 1006.13; and

(5) Inventories of fluid milk products at the beginning and end of the month;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing:

(1) The respective amounts of skim milk and butterfat disposed of as route disposition in the marketing area, showing separately the in-area disposition of filled milk; and

(2) For a handler described in § 1006.9 (d), the amount of reconstituted skim milk in fluid milk products disposed of in the marketing area as route disposition; and

(c) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1006.31 Payroll reports.

(a) Each handler described in § 1006.9 (a), (b), and (c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer;

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1006.76(b) shall report to the market administrator on or before the 20th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering Grade A milk shall be reported in lieu of payments to producers.

§ 1006.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(c) Each handler described in § 1006.9 (c) shall report to the market administrator, in detail and on forms prescribed by the market administrator on or before the 7th day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

CLASSIFICATION OF MILK

§ 1006.40 Classes of utilization.

Subject to the conditions set forth in §§ 1006.41 through 1006.44, all skim milk and butterfat required to be reported by a handler pursuant to § 1006.30 shall be classified 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 paragraph (b) of this section;

(2) In packaged fluid-milk products in inventory at the end of the month; and

(3) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains 6 percent or more nonmilk fat (or oil);

(2) Skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

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

(5) Skim milk represented by the nonfat 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 shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1006.13) but not in excess of:

(i) 2 percent of producer milk (except that received from a handler described in § 1006.9(c));

(ii) Plus 1.5 percent of producer milk received from a handler described in § 1006.9(c): *Provided,* That if the handler receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2 percent;

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

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

(v) Plus 1.5 percent of bulk fluid milk products from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler;

(vi) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1006.41(b)(2).

§ 1006.41 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(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 § 1006.40(b)(6);

(2) Other source milk exclusive of that specified in § 1006.40(b)(6).

§ 1006.42 Classification of transfers and diversions.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product 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 computations pursuant to § 1006.44(a)(9) and the corresponding step of § 1006.44(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1006.44(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1006.44(a)(8) or (9) and the corresponding steps of § 1006.44(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

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

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1006.30;

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

(i) Any Class I route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1006.44(a)(8) and the corresponding step of § 1006.44(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such 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 constitutes the regular source of supply for such nonpool plant;

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

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

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

(1) If transferred in packaged form, classification shall be in the classes to which allocated 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, transfers in bulk form shall be classified as Class II to the extent of Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

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

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes shall be classified in a comparable classification as Class II 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 § 1006.40.

(d) As Class I milk if transferred or diverted in the form of a fluid milk product, from a pool plant to an exempt distributing plant.

(e) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

§ 1006.43 General classification rules.

In determining the classification of producer milk pursuant to § 1006.44, the following rules shall apply:

(a) Each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1006.30 and from such reports, shall compute for each handler the total pounds of skim milk and butterfat in each class.

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1006.44 Classification of producer milk.

After making the computations pursuant to § 1006.43, the market administrator shall determine the classification of producer milk for each handler for each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1006.40(b)(6);

(2) 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 (3)(vi) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1006.40(b)(5) plus 2 percent of the remainder of such receipts; and

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

(2-a) 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 any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

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

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

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

(iv) Receipts of fluid milk products from an exempt distributing plant;

(v) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk) and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2-a) of this paragraph; and

(vi) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided*, That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

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

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2-a) and (3)(v) of this paragraph:

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

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (3)(vi) of this paragraph:

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (3)(vi) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

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

(8) 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-a), (3)(v), and (5)(i) of this paragraph;

(9) 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 other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (3)(vi) and (5)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1006.45(a) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(10) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and received from pool plants of other handlers according to the classification of such products pursuant to § 1006.42(a); and

(11) 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 II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section;

(c) Determine the weighted average butterfat content of producer milk in each class as computed pursuant to paragraphs (a) and (b) of this section.

§ 1006.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1006.44(a)(9) and the corresponding step of § 1006.44(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) 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 skim milk and butterfat in the form of fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1006.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such reports.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which such fluid milk

products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

CLASS PRICES

§ 1006.50 Class prices.

Subject to the provisions of §§ 1006.52 and 1006.55, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.85.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

§ 1006.51 Basic formula price.

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

§ 1006.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida and more than 70 miles from the nearer of the City Halls of Jacksonville or Tallahassee, Fla., or within the State of Florida shall be adjusted at the rates set forth in the following schedule:

Location of plant	*Rate per cwt.*
Outside the State of Florida:	
In excess of 70 but not more than 85 miles.	Subtract 10 cents.
For each additional 10 miles or fraction thereof.	Subtract 1.5 cents.
Inside the State of Florida:	
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam, and St. Johns, but outside the defined marketing area of Part 1013.	Add 10 cents.
In the defined marketing area of Part 1013.	Add 30 cents.
North of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam, and St. Johns.	No adjustment.

(b) For the purpose of calculating location adjustments receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location adjustment applicable at each plant, beginning with the plant nearest the City Hall in Jacksonville, Orlando or Tallahassee, Fla.

§ 1006.53 Announcement of class prices and handler butterfat differentials.

On or before the fifth day of each month, the market administrator shall publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate:

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

(b) The Class I butterfat differential for the current month; and

(c) The Class II price and the Class II butterfat differential, both for the preceding month.

§ 1006.54 Equivalent price.

If for any reason a price quotation required by this part 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.

§ 1006.55 Handler butterfat differentials.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1006.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents; and

(b) Class II price, 0.115 times the Chicago butter price specified in § 1006.51.

UNIFORM PRICE

§ 1006.60 Handler's value of milk for computing uniform price.

The net pool obligation of each handler described in § 1006.9 (a), (b), and (c) during 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 § 1006.44(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1006.44(a)(11) and the corresponding step of § 1006.44 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1006.44(a)(6) and the corresponding step of § 1006.44(b);

(d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1006.44(a)(4) and the corresponding step of § 1006.44(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1006.44(a)(3) and the corresponding step of § 1006.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1006.44(a)(3) (v) and (vi) and the corresponding step of § 1006.44(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1006.44(a)(8) and the corresponding step of § 1006.44(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 pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

§ 1006.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1006.60 for all handlers who filed the reports pursuant to § 1006.30 for the month, except those in default of payments required pursuant to § 1006.71 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1006.74 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1006.75(a);

(d) Subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1006.75 (a);

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

(f) 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 § 1006.60(f); and

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1006.62 Announcement of uniform price and producer butterfat differential.

The market administrator shall publicly announce on or before the 11th day of each month:

(a) The uniform price for the preceding month; and

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

Payments For Milk

§ 1006.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1006.71 and 1006.76 and out of which he shall make all payments from such fund pursuant to § 1006.72: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1006.71 Payments to the producer-settlement fund.

(a) On or before the 12th 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 subparagraph (1) of this paragraph exceed the amounts specified in subparagraph (2) of this paragraph:

(1) The net pool obligation pursuant to § 1006.60 for such handler; and

(2) The sum of:

(i) The value of such handler's producer milk at the applicable uniform price; and

(ii) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) of other source milk for which a value is computed pursuant to § 1006.60(f).

(b) Each handler who operates an other order plant that is regulated under an order providing for individual-handler pooling shall pay to the market administrator for the producer-settlement fund, on or before the 25th day after the end of the month, an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each marketing area; and

(2) Compute the value of the quantity of reconstituted skim milk assigned in subparagraph (1) of this paragraph to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

§ 1006.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1006.71(a)(2) exceeds the amount computed pursuant to § 1006.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1006.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the 20th day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than 85 percent of the uniform price for the preceding month per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer;

(2) On or before the 5th day of the following month to each producer who had not discontinued shipping milk to such handler before the last day of the month, not less than 85 percent of the uniform price for the preceding month per hundredweight of milk received from the 16th through the last day of the month, less proper deductions authorized in writing by such producer; and

(3) On or before the 15th day of each month to each producer for milk received during the preceding month, not less than the uniform price per hundredweight, adjusted pursuant to §§ 1006.74, 1006.75, and 1006.86, subject to the following:

(i) Minus payments made pursuant to subparagraphs (1) and (2) of this paragraph;

(ii) Less proper deductions authorized in writing by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1006.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the second day prior to the date on which payments are due individual producers, shall pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the market administrator at his discretion, through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1006.74 Producer butterfat differential.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk, is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1006.44 by the respective butterfat differential for each class combining the totals, and dividing by the total pounds of butterfat in producer milk.

§ 1006.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced or increased according to the location of the pool plant at the rates set forth in § 1006.52; and

(b) For purposes of computations pursuant to §§ 1006.71 and 1006.72, the uniform price shall be adjusted at the rates set forth in § 1006.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1006.76 Payments by 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 §§ 1006.30 and 1006.31(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 § 1006.60 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 plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II 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;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1006.60(f) and any credits computed pursuant to § 1006.71(a)(2)(ii) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1006.30 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 § 1006.7(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of:

(i) The gross payments made by such handler for Grade A 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 disposed of as route disposition in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any 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) Receipts 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 any 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 pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as route disposition in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

§ 1006.77 Adjustment of accounts.

When verification by the market administrator of reports or payments of a handler discloses errors resulting in monies due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1006.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1006.71, 1006.77, 1006.85, and 1006.86 shall be increased one-half of 1 percent for each month or portion thereof that such obligation is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1006.85 Assessment for order 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 15th day after the end of the month 4 cents per hundredweights or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Any other source milk allocated to Class I pursuant to § 1006.44(a) (3) and (8) and the corresponding step of § 1006.44(b), except such other source milk excluded from pool obligations pursuant to § 1006.60(f); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

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

(2) Specified in § 1006.76(b)(2)(ii).

§ 1006.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 4 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set for in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

PART 1012—MILK IN TAMPA BAY MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

GENERAL PROVISIONS

§ 1012.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1012.2 Tampa Bay marketing area.

The "Tampa Bay marketing area", hereinafter called the "marketing area", means all the territory geographically within the boundaries of the following counties, all in the State of Florida, including all waterfront facilities connected therewith and all territory wholly or partly therein occupied by Government (Municipal, State, or Federal) reservations, installations, institutions, or other similar establishments.

Charlotte.
Collier.
De Soto.
Hardee.
Hernando.
Highlands.
Hillsborough.
Lee.
Manatee.
Pasco.
Pinellas.
Polk.
Sarasota.

§ 1012.3 Route disposition.

"Route disposition" means a delivery either direct or through any distribution facility other than a plant (including disposition from a plant store, vendor, or vending machine) of a fluid milk product classified as Class I milk.

§ 1012.4 [Reserved]

§ 1012.5 Distributing plant.

"Distributing plant" means a plant that is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which there is route disposition of any fluid milk product during the month in the marketing area.

§ 1012.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product that is acceptable to the appropriate health authority for distribution in the marketing area as Grade A or filled milk is shipped during the month to a pool plant.

§ 1012.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which not less than 50 percent of the total Grade A fluid milk products, except filled milk, received at the plant during the month is disposed of as route disposition except as filled milk and not less than 10 percent of such receipts is disposed of in the marketing area as route disposition except as filled milk; or

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant meets the requirements of paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than in the marketing area regulated pursuant to such other order.

§ 1012.8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products in consumer-type packages or dispenser units are distributed in the marketing area as route disposition during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1012.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(c) A cooperative association with respect to milk of its producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1012.10 Producer-handler.

"Producer-handler" means any person who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month:

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(c) Dispose of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1012.11 [Reserved]

§ 1012.12 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1012.13 from a pool plant to a nonpool plant.

§ 1012.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer or a handler described in § 1012.9(c): *Provided*, That if the milk received at a pool plant from a handler described in § 1012.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1012.9(c) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant for the account of the pool plant operator or a cooperative association in any month in which not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant, subject to the following:

(1) Milk so diverted for the account of a handler operating a pool plant shall be deemed to have been received by the handler at the plant to which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the cooperative association at the location of the plant to which diverted;

(2) If diverted from the pool plant of another handler for the account of a cooperative association, the aggregate quantity of milk of member producers of the cooperative association so diverted that exceeds 25 percent of the milk physically received from such producers at pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) If diverted by a handler operating a pool plant for his account, the aggregate quantity of producer milk so diverted that exceeds 25 percent of the aggregate quantity of milk physically received from producers at such plant during the month shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (2) and (3) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1012.14 Other source milk.

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

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

(3) Fluid milk products in inventory at the beginning of the month;

(b) Products other than fluid milk products 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

(c) 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.

§ 1012.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk, and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

§ 1012.16 [Reserved]

§ 1012.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1012.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of or marketing milk or milk products for its members.

HANDLER REPORTS

§ 1012.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler (except a handler described in § 1012.9 (e) or (f)) shall report to the market administrator for such month with respect to each plant at which milk is received or at which filled milk is processed or packaged, reporting in detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in or represented by:

(1) Producer milk (including such handler's own production) or, in the case of handlers described in § 1012.9(d), milk received from dairy farmers;

(2) Fluid milk products received from pool plants of other handlers;

(3) Other source milk;

(4) Milk diverted to nonpool plants pursuant to § 1012.13; and

(5) Inventories of fluid milk products at the beginning and end of the month;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing:

(1) The respective amounts of skim milk and butterfat disposed of as Class I route disposition in the marketing area, showing separately the in-area disposition of filled milk; and

(2) For a handler described in § 1012.9(d), the amount of reconstituted skim milk in fluid milk products disposed of in the marketing area as route disposition; and

(c) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1012.31 Payroll reports.

(a) Each handler described in § 1012.9 (a), (b), and (c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1012.76(b) shall report to the market

administrator on or before the 20th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering Grade A milk shall be reported in lieu of payments to producers.

§ 1012.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(c) Each handler described in § 1012.9(c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 7th day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

CLASSIFICATION OF MILK

§ 1012.40 Classes of utilization.

Subject to the conditions set forth in §§ 1012.41 through 1012.44, all skim milk and butterfat required to be reported by a handler pursuant to § 1012.30 shall be classified 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 paragraph (b) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains 6 percent or more nonmilk fat (or oil).

(2) Skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

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

(5) Skim milk represented by the nonfat 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 shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1012.13) but not in excess of:

(i) Two percent of producer milk (including that received from a handler described in § 1012.9(c)) if the handler receiving such milk files notice with the market administrator that he is purchasing it on the basis of farm weights. Otherwise, the applicable percentage pursuant to this subdivision shall be 1.5 percent;

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

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

(iv) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler; and

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1012.41(b)(2).

§ 1012.41 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(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 § 1012.40(b)(6); and

(2) Other source milk exclusive of that specified in § 1012.40(b)(60).

§ 1012.42 Classification of transfers and diversions.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product 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 computations pursuant to § 1012.44(a)(9) and the corresponding step of § 1012.44(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1012.44(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1012.44(a)(8) or (9) and the corresponding steps of § 1012.44(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant that is neither an other order plant, nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1012.30;

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

(i) Any Class I route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1012.44(a)(8) and the corresponding step of § 1012.44(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such 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 the regular source of supply for such nonpool plants;

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

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

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

(1) If transferred in packaged form, classification shall be in the classes to which allocated 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, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

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

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes shall be classified in a comparable classification as Class II 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 § 1012.40.

(d) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

§ 1012.43 General classification rules.

In determining the classification of producer milk pursuant to § 1012.44, the following rules shall apply:

(a) Each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1012.30 and from such reports, shall compute for each handler the total pounds of skim milk and butterfat in each class.

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1012.44 Classification of producer milk.

After making the computations pursuant to § 1012.43, the market administrator shall determine the classification of producer milk for each handler for each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1012.40(b)(6);

(2) 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 (3)(v) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1012.40(b)(5) plus 2 percent of the remainder of such receipts; and

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

(2–a) 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 any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

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

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

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

(iv) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk, and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2–a) 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;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided*, That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

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

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2–a) and (3)(iv) of this paragraph:

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

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (3)(v) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (3)(v) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

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

(8) 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–a), (3)(iv), and (5)(i) of this paragraph;

(9) 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 other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (3)(v) and (5)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1012.45(a) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(10) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and received from pool plants of other handlers according to the classification of such products pursuant to § 1012.42(a); and

(11) 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 II. Any amounts 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;

(c) Determine the weighted average butterfat content of producer milk in each class as computed pursuant to paragraphs (a) and (b) of this section.

§ 1012.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1012.44(a)(9) and the corresponding step of § 1012.44(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) 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 skim milk and butterfat in the form of fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1012.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such reports.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

CLASS PRICES

§ 1012.50 Class prices.

Subject to the provisions of §§ 1012.52 and 1012.55, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.95.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

§ 1012.51 Basic formula price.

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

§ 1012.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida or within the State of Florida but outside the defined marketing area shall be adjusted at the rates set forth in the following schedule:

Location of plant	*Rate per cwt.*
Outside the State of Florida:	Subtract 1.5 cents.
For each 10 miles or fraction thereof from the City Hall in Tampa, Fla.	
Inside the State of Florida:	Add 20 cents.
In the defined marketing area of Part 1013.	
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam, and St. Johns, but outside the defined marketing area of Part 1013.	No adjustment.
North of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam, and St. Johns.	Subtract 10 cents.

(b) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location adjustment applicable at each plant, beginning with the plant nearest the Tampa City Hall.

§ 1012.53 Announcement of class prices and handler butterfat differentials.

On or before the fifth day of each month, the market administrator shall publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate:

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

(b) The Class I butterfat differential for the current month; and

(c) The Class II price and the Class II butterfat differential, both for the preceding month.

§ 1012.54 Equivalent price.

If for any reason a price quotation required by this part 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.

§ 1012.55 Handler butterfat differentials.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1012.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents;

(b) Class II price, 0.115 times the Chicago butter price specified in § 1012.51.

UNIFORM PRICE

§ 1012.60 Handler's value of milk for computing uniform price.

The net pool obligation of each handler described in § 1012.9 (a), (b), and (c) during 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 § 1012.44(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1012.44(a)(12) and the corresponding step of § 1012.44 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the differences between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.44(a)(6) and the corresponding step of § 1012.44(b).

(d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.44(a)(4) and the corresponding step of § 1012.44(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1012.44(a)(3) and the corresponding step of § 1012.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1012.44(a)(3) (iv) and (v) and the corresponding step of § 1012.44(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1012.44(a)(8) and the corresponding step of § 1012.44(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 pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

§ 1012.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1012.60 for all handlers who filed the reports pursuant to § 1012.30 for the month, except those in default of payments required pursuant to § 1012.71 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1012.74 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1012.75;

(d) Subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1012.75;

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

(f) 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 § 1012.60(f); and

(g) Subtract not less than four cents nor more than five cents per hundredweight.

§ 1012.62 Announcement of uniform price and producer butterfat differential.

The market administrator shall publicly announce on or before the 11th day of each month:

(a) The uniform price for the preceding month; and

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

PAYMENTS FOR MILK

§ 1012.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1012.71 and 1012.76 and out of which he shall make all payments from such fund pursuant to § 1012.72: *Provided,* That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1012.71 Payments to the producer-settlement fund.

(a) On or before the 12th 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 subparagraph (1) of this paragraph exceed the amounts specified in subparagraph (2) of this paragraph:

(1) The net pool obligation pursuant to § 1012.60 for such handler; and

(2) The sum of:

(i) The value of such handler's producer milk at the applicable uniform price; and

(ii) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) of other source milk for which a value is computed pursuant to § 1012.60(f).

(b) Each handler who operates an other order plant that is regulated under an order providing for individual-handler pooling shall pay to the market administrator for the producer-settlement fund, on or before the 25th day after the end of the month, an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each marketing area; and

(2) Compute the value of the quantity of reconstituted skim milk assigned in subparagraph (1) of this paragraph to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

§ 1012.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1012.71(a)(2) exceeds the amount computed pursuant to § 1012.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1012.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the 20th day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than 85 percent of the uniform price for the preceding month per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer;

(2) On or before the 5th day of the following month to each producer who had not discontinued shipping milk to such handler before the last day of the month, not less than 85 percent of the uniform price for the preceding month per hundredweight of milk received from the 16th through the last day of the month, less proper deductions authorized in writing by such producer; and

(3) On or before the 15th day of each month to each producer for milk received during the preceding month, not less than the uniform price per hundredweight, adjusted pursuant to §§ 1012.74, 1012.75, and 1012.86, subject to the following:

(i) Minus payments made pursuant to subparagraphs (1) and (2) of this paragraph;

(ii) Less proper deductions authorized in writing by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1012.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the second day prior to the date on which payments are due individual producers, shall pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of

the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the market administrator at his discretion, through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1012.74 Producer butterfat differential.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk, is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1012.44 by the respective butterfat differential for each class, combining the totals, and dividing by the total pounds of butterfat in producer milk.

§ 1012.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1012.52; and

(b) For purposes of computations pursuant to §§ 1012.71 and 1012.72, the uniform price shall be adjusted at the rates set forth in § 1012.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1012.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator or 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 §§ 1012.30 and 1012.31(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 § 1012.60 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 plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II 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;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1012.60(f) and any credits computed pursuant to § 1012.71(a)(2)(ii) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests and provides with his report pursuant to § 1012.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipment to such plant during the month equivalent to the requirements of § 1012.7(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of:

(i) The gross payments made by such handler for Grade A 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 disposed of as route disposition in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any 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) Receipts 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 any 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 pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as route disposition in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

§ 1012.77 Adjustment of accounts.

When vertification by the market administrator of reports or payments of a handler discloses errors resulting in monies due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1012.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1012.71, 1012.77, 1012.85, and 1012.86 shall be increased one-half of one percent for each month or portion thereof that such obligation is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1012.85 Assessment for order 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 15th day after the end of the month 4 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) Any other source milk allocated to Class I pursuant to § 1012.44(a) (3) and (8) and the corresponding step of § 1012.-

44(b), except such other source milk excluded from pool obligations pursuant to § 1012.60(f); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

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

(2) Specified in § 1012.76(b)(2)(ii).

§ 1012.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 4 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of products for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

PART 1013—MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

Subpart—Order Regulating Handling

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GENERAL PROVISIONS

§ 1013.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1013.2 Southeastern Florida marketing area.

The "Southeastern Florida marketing area," hereinafter called the "marketing area," means all the territory geographically within the boundaries of the following counties, all in the State of Florida, including all Government reservations and incorporated municipalities within this territory:

Broward.	Martin.
Dade.	Monroe.
Glades.	Okeechobee.
Hendry.	Palm Beach.
Indian River.	St. Lucie.

§ 1013.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including delivery by a vendor, or a sale from or through a plant store, or by vending machine) of any product in a form designated as Class I milk pursuant to § 1013.40(a), but does not include delivery to a milk or filled milk receiving or processing plant.

§ 1013.4 [Reserved]

§ 1013.5 Distributing plant.

"Distributing plant" means a plant approved by a duly constituted health authority for the processing or packaging of Grade A milk which has route disposition of fluid milk products in the marketing area during the month.

§ 1013.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority is shipped during the month to a pool plant.

§ 1013.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which not less than 50 percent of the total Grade A fluid milk products, except filled milk, received at the plant during the month is disposed of as route disposition (excluding filled milk), and from which not less than 10 percent of such receipts is disposed of in the marketing area as route disposition (excluding filled milk); or

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section.

(c) The term "pool plant" shall not apply to:

(1) A producer-handler plant;

(2) Any plant meeting the requirements of a pool plant pursuant to paragraph (b) but not pursuant to paragraph (a) of this section which, if it were not a pool plant under this part, would be fully subject to the classification and pooling provisions of another order issued pursuant to the Act;

(3) Any plant meeting the requirements of a pool plant pursuant to paragraph (b) but not pursuant to paragraph (a) of this section at which all receipts of skim milk and butterfat during the month would be priced and pooled under the terms of an other order(s) issued pursuant to the Act if such plant were not a pool plant under this order: *Provided*, That such pricing and pooling results in all skim milk and butterfat disposed of from the plant in the form of milk and skim milk during the month being Class I milk under the terms of another order(s) issued pursuant to the Act.

(4) Any plant which does not dispose of a greater volume of Class I milk, except filled milk, as route disposition in the Southeastern Florida marketing area than in the marketing area regulated pursuant to such other order; and

(5) Any building, premises, or facilities, the primary function of which is to hold or store bottled milk or milk prod-

ucts (including filled milk) in finished form, nor shall it include any part of a plant in which the operations are entirely separated (by wall or other partition) from the handling of producer milk.

§ 1013.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which skim milk and butterfat in the form of products designated as Class I milk pursuant to § 1013.40(a) in consumer-type packages or dispenser units are distributed as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which skim milk and butterfat in the form of products designated as Class I milk pursuant to § 1013.40(a) are moved to a pool plant during the month.

§ 1013.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(c) Any cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1013.10 Producer-handler.

"Producer-handler" means any person who meets all the conditions of paragraphs (a), (b), and (c) of this section:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

(d) Sections 1013.50 through 1013.86 shall not apply to a producer-handler.

§ 1013.11 Dairy farmer.

A dairy farmer is a person who produces milk. Such person shall be the person responsible for the milk production enterprise on a continuing basis as to management and risk.

§ 1013.12 Producer.

"Producer" means any person except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk (as described in § 1013.11) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable to agencies of the U.S. Government located in the marketing area for fluid consumption).

§ 1013.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1013.9(c): *Provided*, That if the milk received at a pool plant from a handler described in § 1013.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1013.9(c) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant for the account of the pool plant operator or a cooperative associattion, subject to the following:

(1) Milk so diverted for the account of a handler operating a pool plant shall be deemed to have been received by the handler at the plant to which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the coooperative association at the location of the plant to which diverted;

(2) If diverted from the pool plant of another handler for the account of a cooperative association, the aggregate quantity of milk of member producers of the cooperative association so diverted that exceeds 25 percent of the milk physically received from such producers at pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) If diverted by a handler operating a pool plant for his account, the aggregate quantity of producer milk so diverted that exceeds 25 percent of the aggregate quantity of milk physically received from producers at such plant during the month shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (2) and (3) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1013.14 Other source milk.

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

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

(3) Fluid milk products in inventory at the beginning of the month;

(b) Products other than fluid milk products 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

(c) 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.

§ 1013.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

§ 1013.16 [Reserved]

§ 1013.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat

milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1013.18 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association: (a) To be qualified under the provisions of the act of Congress of February 19, 1922, as amended, known as the "Capper-Volstead Act"; (b) to have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and (c) to have its entire activities under the control of its members.

§ 1013.19 Cream.

"Cream" means the product obtained by the separation of skim milk from whole milk such that the butterfat content of the remaining product exceeds 10 percent, and mixtures of such products with milk and skim milk such that the average butterfat content exceeds 10 percent.

HANDLER REPORTS

§ 1013.30 Report of receipts and utilization.

On or before the 7th day after the end of each month, each handler, except a handler pursuant to § 1013.9 (e) or (f), shall report to the market administrator for such month, and for each accounting period in each month, with respect to each plant at which milk is received or at which filled milk is processed or packaged in detail and on forms prescribed by the market administrator, as follows:

(a) The quantities of skim milk and butterfat contained in or represented by receipts of:

(1) Producer milk (or in the case of handlers described in § 1013.9(d) Grade A milk received from dairy farmers);

(2) Fluid milk products received from pool plants;

(3) Other source milk;

(4) Milk diverted to nonpool plants pursuant to § 1013.13; and

(5) Inventories of fluid milk products at the beginning and end of the month or accounting period;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including a separate statement showing:

(1) The respective amounts of skim milk and butterfat disposed of as route disposition entirely outside the marketing area, showing separately the in-area and outside area route disposition of filled milk; and

(2) For a handler described in § 1013.9 (d), the amount of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(c) Such other information with respect to receipts and utilization as the market administrator may request; and

(d) Each handler who submits reports on the basis of accounting periods of less than a month, as described in § 1013.44 (d), shall submit a summary report of the same information for the entire month.

§ 1013.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1013.9 (a), (b), or (c) shall report to the market administrator, in detail and on forms prescribed by the market administrator, his producer payroll for that month, which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The days for which milk was received from such producer;

(4) The average butterfat content of such milk; and

(5) The net amount of the handler's payment with respect to such milk to the producer or cooperative association, together with the price paid and the amount and nature of any deductions.

(b) Each handler making payments pursuant to § 1013.76(a) shall report the information required pursuant to paragraph (a) of this section. In such reports receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk, and payments to dairy farmers delivering such milk shall be reported in lieu of payments to producers.

§ 1013.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(c) Each handler described in § 1013.9(c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 7th day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

(d) Each handler described in § 1013.9 (a), (b), or (c) shall report to the market administrator:

(1) On or before the first day other source milk as defined in § 1013.14(a) is received at his pool plants, his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(2) Such other information with respect to his receipts and utilization of butterfat and skim milk and at such times as the market administrator shall prescribe.

CLASSIFICATION OF MILK

§ 1013.40 Classes of utilization.

Subject to the conditions set forth in §§ 1013.41 through 1013.44, the skim milk and butterfat required to be reported pursuant to § 1013.30(a) shall be classified 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;

(2) In packaged fluid milk products in inventory at the end of the month; and

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

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains 6 percent or more nonmilk fat (or oil);

(2) Except as provided in paragraph (c) of this section, skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(3) Except as provided in paragraph (c) of this section, skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

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

(5) Skim milk represented by the nonfat 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 shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1013.13) but not in excess of:

(i) Two percent of producer milk (including that received from a handler described in § 1013.9(c)) if the handler receiving such milk files notice with the market administrator that he is purchasing it on the basis of farm weights. Otherwise, the applicable percentage pursuant to this subdivision shall be 1.5 percent;

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

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

(iv) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler; and

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1013.41(b)(2).

(c) *Class III milk.* Class III milk shall be all milk, the skim milk portion of which is:

(1) Disposed of for fertilizer or livestock feed, or

(2) Dumped after such prior notification as the market administrator may require.

§ 1013.41 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(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 § 1013.40(b)(6).

(2) Other source milk exclusive of that specified in § 1013.40(b)(6).

§ 1013.42 Classification of transfers and diversions.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of a fluid milk product 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 computations pursuant to § 1013.44(a)(10) and the corresponding step of § 1013.44(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1013.44(a)(3) and (4), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1013.44(a)(9) or (10) and the corresponding steps of § 1013.44(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in bulk in the form of a fluid milk product to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II or Class III in his report submitted to the market administrator pursuant to § 1013.30;

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

(i) Any Class I route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1013.44(a)(9) and the corresponding step of § 1013.44(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such 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 the regular source of supply for such nonpool plant;

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

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat in fluid milk products so transferred shall be classified as Class III milk to the extent available and the remainder as Class II milk.

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

(1) If transferred in packaged form, classification shall be in the classes to which allocated 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, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

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

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and allocations to other classes shall be classified in a comparable classification as Class II 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 § 1013.40.

(d) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

§ 1013.43 General classification rules.

In determining the classification of producer milk pursuant to § 1013.44, the following rules shall apply:

(a) Each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1013.30(e) and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk at each pool plant.

(b) The skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1013.44 Classification of producer milk.

After making the computations pursuant to § 1013.43, the market administrator shall determine the classification of producer milk for each handler for each month or other accounting period described in paragraph (d) of this section as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1013.40(b)(6);

(2) 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 (4)(iv) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1013.40(b)(5) plus 2 percent of the remainder of such receipts; and

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

(2–a) 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 any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II, the pounds of skim milk in other source milk as specified in § 1013.14(b);

(4) 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) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

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

(iii) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk) and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2–a) of this paragraph; and

(iv) 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;

(5) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided,* That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class III and/or Class II (beginning with Class III unless otherwise specified) but not in excess of such quantity or quantities.

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2–a) and (4)(iii) of this paragraph:

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

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(iv) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (4)(iv) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk (and then Class I), the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (5) of this paragraph;

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

(9) 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–a), (4)(iii), and (6)(i) of this paragraph;

(10) 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 other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (4)(iv) and (6)(ii) of this paragraph:

(i) In series beginning with Class III and thereafter from Class II, 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 § 1013.45(a) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(11) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and received from pool plants of other handlers according to the classification of such products pursuant to § 1013.42(a); and

(12) 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;

(c) Determine the weighted average butterfat content of producer milk in each class as computed pursuant to paragraphs (a) and (b) of this section; and

(d) A handler may account for the receipts, utilization and classification of milk and filled milk, at his plant, for periods within a month if he notifies the market administrator in writing of his intention to use such accounting period not later than the end of every accounting period.

§ 1013.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1013.44(a)(10) and the corresponding step of § 1013.44(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) 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 skim milk and butterfat in the form of milk products designated in § 1013.40(a) from an other order plant, the classification to which such receipts are allocated pursuant to § 1013.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped skim milk and butterfat in the form of milk products designated as Class I milk pursuant to § 1013.40(a) to an other order plant, the classification to which such skim milk and butterfat was 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.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class

in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1013.50 Class prices.

Subject to the provisions of §§ 1013.52 and 1013.55, the class prices for the month per hundredweight of 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 $3.15.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

(c) *Class III price.* The Class III price shall be computed as follows: Multiply the Chicago butter price described in § 1013.51 by 1.25, add 4 cents and multiply the result by 3.5.

§ 1013.51 Basic formula price.

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

§ 1013.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida or within the State of Florida but outside of the defined marketing area shall be adjusted at the rates set forth in the following schedule:

Location of plant	*Rate per cwt.*
Outside the State of Florida:	
For each 10 miles or fraction thereof from the U.S. Post Office in West Palm Beach, Fla.	Subtract 1.5 cents.
Inside the State of Florida:	
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam, and St. Johns, but outside the defined marketing area of this order.	Subtract 20 cents.
North of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam, and St. Johns.	Subtract 30 cents.

(b) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location adjustment applicable at each plant, beginning with the plant nearest the U.S. Post Office in West Palm Beach.

§ 1013.53 Announcement of class prices and handler butterfat differentials.

On or before the fifth day of each month, the market administrator shall announce publicly by posting in a conspicuous place in his office and by such other means as he deems appropirate:

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

(b) The Class I butterfat differential for the current month; and

(c) The Class II and Class III prices and butterfat differentials for the preceding month.

§ 1013.54 Equivalent price.

If, for any reason, a price quotation required by this 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 which is required.

§ 1013.55 Handler butterfat differentials.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1013.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents; and

(b) Class II and Class III prices, 0.115 times the Chicago butter price for the month specified in § 1013.51.

UNIFORM PRICE

§ 1013.60 Handler's value of milk for computing uniform price.

The net pool obligation of each handler described in § 1013.9 (a), (b), and (c), during 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 § 1013.44(c), by the applicable class price;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1013.44(a)(12) and the corresponding step of § 1013.44(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding accounting period and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.44(a)(7) and the corresponding step of § 1013.44(b);

(d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.44(a)(5) and the corresponding step of § 1013.44(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1013.44(a)(3) and (4) and the corresponding step of § 1013.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1013.44(a)(4) (iii) and (iv) and the corresponding step of § 1013.44(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1013.44(a)(9) and the corresponding step of § 1013.44(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 pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

§ 1013.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1013.60 for all handlers who filed the reports prescribed by § 1013.30 for the month and who made the payments pursuant to § 1013.71 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1013.74 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location adjustments computed pursuant to § 1013.75;

(d) Add an amount equal to one-half of 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 § 1013.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1013.62 Announcement of uniform price and producer butterfat differential.

The market administrator shall publicly announce on or before the 11th day of each month:

(a) The uniform price for the preceding month; and

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

PAYMENTS FOR MILK

§ 1013.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1013.71, 1013.76, and 1013.77 and out of which he shall make all payments pursuant to §§ 1013.72 and 1013.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1013.71 Payments to the producer-settlement fund.

(a) On or before the 12th 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 subparagraph (1) of this paragraph exceed the amounts specified in subparagraph (2) of this paragraph: *Provided*, That the requirement as to date of payment pursuant to this seciton shall be considered to have been met if the payment is made by mail postmarked not later than the required payment date:

(1) The net pool obligation computed pursuant to § 1013.60 for such handler; and

(2) The sum of:

(i) The value of such handler's producer milk at the applicable uniform prices specified in § 1013.73(a)(3); and

(ii) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) of other source milk for which a value is computed pursuant to § 1013.60(f).

(b) Each handler operating a plant specified in § 1013.7(c)(4), if such plant is subject to the classification and pricing provisions of another order which provides for individual-handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

(2) Compute the value of the quantity of reconstituted skim milk assigned in subparagraph (1) of this paragraph to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

§ 1013.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1013.71(a)(2) exceeds the amount computed pursuant to § 1013.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1013.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the 20th day of each month to each producer who did not discontinue shipping milk to such handler before the 15th day of the month, an amount equal to not less than the uniform price for the preceding month less 10 percent, but not to exceed $6, multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the fifth day of the following month to each producer who did not discontinue shipping milk to such handler before the last day of the month, an amount equal to not less than the uniform price for the preceding month less 10 percent, but not to exceed $6, multiplied by the hundredweight of milk received from such producer after the 15th and through the last day of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(3) On or before the 15th day of the following month, to each producer an amount equal to not less than the uniform price computed pursuant to § 1013.61 adjusted by the butterfat differential to producers and the plant location adjustments to producers, multiplied by the total pounds of milk received from such producer, subject to the following adjustments:

(i) Less payments made to such producer pursuant to subparagraphs (1) and (2) of this paragraph;

(ii) Less marketing service deductions made pursuant to § 1013.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized by such producer: *Provided*, That if by the date specified, such handler has not received full payment from the market administrator pursuant to § 1013.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment and payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall on or before the second day prior to each date on which payments are due individual producers, pay the cooperative association for milk received from the producer-members of such association as determined by the market administrator during the period for which payment is made, an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of the month; and

(2) On or before the 10th day of the following month: (i) The total pounds of milk received during the month, (ii) the pounds of milk received each day, together with the butterfat content of such milk, (iii) the amount or rate and nature of any authorized deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1013.77.

§ 1013.74 Producer butterfat differential.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1013.44 by the respective butterfat differential for each class, combining the totals, and dividing by the total pounds of butterfat in producer milk.

§ 1013.75 Plant location adjustments for producers on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1013.52; and

(b) For purposes of computations pursuant to §§ 1013.71 and 1013.72, the uniform price shall be adjusted at the rates set forth in § 1013.52 applicable at

the location of the nonpool plant from which the milk was received.

§ 1013.76 Payments by 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 §§ 1013.30 and 1013.31(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 § 1013.60 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 plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II 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;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1013.60(f) and any credits computed pursuant to § 1013.71(a)(2)(ii) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1013.30 and 1013.31(b) similar reports 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 § 1013.7(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, there will be deducted the sum of: (i) The gross payments made by such handler for Grade A 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) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as route disposition in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any 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) Receipts 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 any 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 pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producers-handlers and exempt plants defined in any other disposed of as route disposition in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to the subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

§ 1013.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1013.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to § 1013.71 shall be increased by one-half of 1 percent for each month or portion thereof that such payment is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1013.85 Assessment for order administration.

(a) As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(1) Producer milk (including such handler's own production);

(2) Any other source milk allocated to Class I pursuant to § 1013.44(a)(3), (4), and (9) and the corresponding steps of § 1013.44(b), except such other source milk excluded from pool obligations pursuant to § 1013.60(f); and

(3) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

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

(ii) Specified in § 1013.76(b)(2)(ii).

(b) With respect to payments pursuant to paragraph (a) of this section, if a handler uses more than one accounting period in a month, the rate of payment per hundredweight for such handler shall be the rate for monthly accounting periods multiplied by the number of accounting periods in the month, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

§ 1013.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk pursuant to § 1013.73, shall deduct 4 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the acccuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association pursuant to paragraph (b) of this section; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set

forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed for each producer.

Signed at Washington, D.C., on July 20, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-11495 Filed 7-24-72;8:53 am]

[7 CFR Part 1108]

[Docket No. AO 243-A24]

MILK IN THE CENTRAL ARKANSAS 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 Central Arkansas 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 10th day after the 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 amendment, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, was formulated, was conducted at Little Rock, Ark., May 2, 1972, pursuant to notices thereof issued April 10, 1972 (37 F.R. 7341), and April 21, 1972 (37 F.R. 7901).

The material issue on the record of the hearing relates to location adjustments.

FINDINGS AND CONCLUSIONS

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

The location adjustment applicable at a plant should be based on the plant's distance from the nearest of the State Capitol in Little Rock, the County Courthouse at Arkadelphia, or the County Courthouse at Forrest City, Ark.

The present location adjustment provisions reduce the Class I and uniform prices at any plant 60 miles or more from Little Rock or Arkadelphia by 1.5 cents for each 10 miles or fraction thereof that such plant is located from the nearer of the two cities.

A proposal to add Memphis, Tenn., as a basing point for determining location adjustments was submitted jointly by six handlers who have substantial Class I sales in the marketing area. They proposed further that at plants located within a contiguous area in northeastern Arkansas and southeastern Missouri, the location adjustment be fixed at 9 cents rather than be determined by the plant's distance from an appropriate basing point. Such area would include the Arkansas counties of Clay, Craighead, Greene, Lawrence, Mississippi, Poinsett, and Randolph; and the Missouri counties of Dunklin and Pemsicot.

One of the six proponent handlers operates plants pooled under each of the Central Arkansas and Memphis orders. Of the remaining five, two operate pool plants under the Central Arkansas order and the other three operate plants pooled under the Memphis order.

There is only one Central Arkansas regulated plant in the nine-county area for which the 9-cent location adjustment was proposed. That plant, at Paragould in Greene County, is 152 miles from Little Rock. Milk received from producers at that plant currently is subject to a 24-cent location adjustment.

Milk from the Paragould plant is distributed in 25 counties in eastern Arkansas, in 14 counties in southeastern Missouri, and in Shelby County, Tenn. Its distribution in Arkansas includes sales in 13 of the 21 counties in the Central Arkansas marketing area. The Paragould plant's Class I sales in the Central Arkansas marketing area are about 25 percent of its total Class I distribution. Its Class I sales in the Memphis marketing area are approximately half the amount of its sales in the Central Arkansas marketing area.

The handlers who proposed the location adjustment changes are the principal competitors of the Paragould handler in the Central Arkansas marketing area and in much of the remainder of its sales area. They testified that the location adjustment at Paragould results in a cost advantage to the Paragould handler in the purchase of milk with adverse effect on their competitive position in the resale market.

The justification offered by proponents for a 9-cent location adjustment at Paragould is that it would provide a better alignment of Class I prices under the Central Arkansas, Memphis, Paducah, and St. Louis-Ozarks orders. They contend that the Class I prices under the four orders should result in approximately the same Class I price, f.o.b. Paragould, under each of the orders. They stated that this is desirable because of the overlapping of the sales areas of Paducah and St. Louis-Ozarks handlers with Central Arkansas and Memphis handlers in various northeastern Arkansas and southeastern Missouri counties.

There is relatively little Class I distribution in the Central Arkansas marketing area from plants regulated by the St. Louis-Ozarks and Paducah orders. A St. Louis-Ozarks handler supplies his chain of stores in the Central Arkansas marketing area from his plant in St. Louis (353 miles from Little Rock). Such sales represent no more than 5 percent of the total Class I distribution in any county in the Central Arkansas marketing area.

If there is any distribution in the Central Arkansas marketing area from Paducah order regulated plants, it is negligible.

The only sales in the St. Louis-Ozarks and Paducah marketing areas by a Central Arkansas regulated handler are from the Paragould plant. About 9 percent of that plant's Class I distribution is in the Paducah marketing area, and about 5 percent in the St. Louis-Ozarks marketing area.

While handler proponents suggested at the hearing that the Class I differentials in one or more of the four orders might be changed to obtain a better price alinement, the Class I price, or any other provision of an order, may be revised, of course, only on the basis of the record evidence presented at a public hearing at which the applicable provisions of that particular order are open for consideration and adequately supported for revision. However, in view of the findings set forth below, it is not necessary in this case to open the provisions of other orders to ameliorate the problem presented.

The Paragould handler, on the other hand, opposed making any change in the location adjustment provisions. He pointed out that the proposal to provide a 9-cent location adjustment (instead of the present 24 cents) at his plant would increase his Class I price by 15 cents.

He contended, however, that if the 24-cent location adjustment at Paragould were changed as a result of the hearing, the new rate should not be less than 19 cents. This, he indicated, is the amount by which the cost of delivering an alternative source of supply from the major milk production area in the country, the production area for the Chicago market, to Little Rock exceeds the cost for such milk delivered to Paragould. Little Rock is 124 miles farther from Chicago than Paragould. Computed at the order's location adjustment rate of 1.5 cents for each 10 miles or fraction thereof, the additional hauling cost for the 124 miles would be 19.5 cents.

The Paragould plant became subject to the Central Arkansas order when the

marketing area was enlarged effective December 1, 1963. It has been a Central Arkansas order pool plant continuously since then. At that time, Arkadelphia was added to Little Rock as a basing point for applying location adjustments. Arkadelphia is 67 miles southwest of Little Rock. No provision was made then for adding a basing point east of Little Rock.

The basing points for computing location adjustments should be established in relation to the major consumption centers in the marketing area. Little Rock is a principal city in the Central Arkansas marketing area. Of the 884,000 population (1970 census) in the marketing area, 287,000 reside in the county (Pulaski) in which Little Rock is located.

The earlier addition of Arkadelphia as a basing point gave consideration to Arkadelphia as a secondary consumption center and provided a basis for determining location adjustments at plants generally west and south of Little Rock.

It is appropriate to add Forrest City as a basing point, as provided for in this decision, for determining location adjustments at plants generally east and northeast of Little Rock. Forrest City is 93 miles east of Little Rock on the main east-west highway in Arkansas. It is also 44 miles from Memphis. It is the principal city between Little Rock and Memphis on Interstate Highway 40 and is centrally located in the eastern Arkansas counties, which together now form a significant area of consumption.

Paragould is 87 miles north of Forrest City. Hence, the location adjustment at Paragould resulting from this decision would be 13.5 cents. Since this is the same differential as would apply at the Paragould plant if it were regulated under the Memphis order, the minimum Class I price for Paragould milk will be on a par with Memphis Class I milk, and with the Class I milk of eastern Arkansas handlers under the Central Arkansas order. Such a price relationship will promote orderly marketing.

The proposal to add Memphis as a basing point is denied. As indicated above, location pricing under a given order is related to the problems of providing supplies for outlets in the marketing area regulated by that order and of achieving uniform prices for regulated handlers similarly circumstanced. No purpose would be served by designating Memphis, a city outside the marketing area, in addition to, or in lieu of, Forrest City as a basing point under the Central Arkansas order since we are here concerned with the milk supply of the Central Arkansas market.

Moreover, it would not be appropriate to determine the location adjustment for Paragould or any other plant east or northeast of Little Rock primarily on the relative distances of Paragould and Little Rock from Chicago. While the Chicago milkshed is an important possible alternative source of supply for such plants, there are other supplies much closer to such locations in Arkansas. There is also supply competition with the Memphis, Paducah, and St. Louis-Ozarks markets. These factors outweigh the establishment of location pricing relative to Chicago.

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 Central Arkansas marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

In § 1108.53, paragraph (a) is revised as follows:

§ 1108.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 60 miles, by shortest highway distance as measured by the market administrator, from the nearest of the County Courthouse in Arkadelphia, Ark., the County Courthouse in Forrest City, Ark., or the State Capitol in Little Rock, Ark., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which a location adjustment is applicable, the price computed pursuant to § 1108.51(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof between such plant and such nearest point; and

* * * * *

Signed at Washington, D.C., on July 20, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-11496 Filed 7-24-72;8:53 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1904]

SAFETY AND HEALTH RECORDS AND REPORTING

Employees Not in Fixed Establishments

Pursuant to section 6(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 657) and Secretary of Labor's Order No. 12-71 (36 F.R. 8754), it is hereby proposed to amend 29 CFR Part 1904 as set forth below to facilitate compliance with recording and reporting requirements with respect to certain operations with employees not in fixed establishments.

Written data, views, and arguments concerning the proposal may be mailed to the Office of Occupational Safety and Health Statistics, Room 3818, 441 G Street NW., Washington, DC 20210, within 30 days after the publication of this notice in the FEDERAL REGISTER. The data, views, and arguments will be available for public inspection and copying at that Office.

1. Subparagraph (1) of § 1904.5(d) would be amended to read as follows:

§ 1904.5 Annual summary.

* * * * *

(d)(1) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under § 1903.2(a) of this chapter. The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report or work at a single establishment, or who do not report to any

fixed establishment on a regular basis, employers shall satisfy this posting requirement by presenting or mailing a copy of the summary during the month of February of the following year to each such employee who receives pay during that month. For multiestablishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

* * * * *

2. Subparagraph (3) of § 1904.12(g) would be amended by adding the phrase "and who are generally not supervised in their daily work" to read as follows:

§ 1904.12 Definitions.

* * * * *

(g) * * *

(3) Records for personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

3. A new § 1904.14 would be established to read as follows:

§ 1904.14 Employees not in fixed establishments.

Employers of employees engaged in physically dispersed operations such as occur in construction, installation, repair or service activities who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of §§ 1904.2, 1904.4, and 1904.6 with respect to such employees by:

(a) Maintaining the required records for each operation or group of operations which is subject to common supervision (field superintendent, field supervisor, etc.) in an established central place;

(b) Having the address and telephone number of the central place available at each worksite; and

(c) Having personnel available at the central place during normal business hours to provide information from the records maintained there by telephone and by mail.

(Sec. 8, 84 Stat. 1598; 29 U.S.C. 657)

Signed at Washington, D.C., this 20th day of July 1972.

GEORGE C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-11498 Filed 7-24-72;8:56 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 21, 36]

[Docket No. 12064; Notice 72-19]

NEWLY PRODUCED AIRPLANES OF OLDER TYPE DESIGNS

Proposed Application of Noise Standards

The Federal Aviation Administration proposes to issue regulations requiring new production turbojet and transport category airplanes to comply with the noise standards of Appendix C of Part 36 of the Federal Aviation Regulations irrespective of type certification date.

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 September 29, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Part 36 of the Federal Aviation Regulations, which was issued on November 3, 1969, and which became effective on December 1, 1969, currently applies specific noise standards only to airplanes type certificated on or after the December 1, 1969, effective date. The only current regulatory impact of Part 36 on airplanes type certificated prior to that date (and that do not meet the specified noise limits) is the acoustical change provision of § 36.1(c)(2), which prohibits changing the type design of those airplanes so as to result in further escalation of noise.

This older class of airplane, which continues to be a major source of noise annoyance around airports, is gradually being replaced by airplanes incorporating the new noise reduction technology that has been created in response to Part 36. This gradual replacement is of fundamental importance in determining whether or not a fleet retrofit program aimed at operators would be economically reasonable. The decision to require aircraft operators (rather than manufacturers) to perform retrofit modifications on aircraft that are already in the fleet is currently being considered by the FAA in response to comments received concerning Notice No. 70-44, "Civil Airplane Noise Retrofit Requirements," 35 F.R. 16980 (November 4, 1970). It is not the purpose of this notice to prejudge the outcome of that ultimate retrofit question concerning operators of aircraft already in the fleet.

The purpose of this notice is to address the separate question whether the older generation of airplane types should continue to be manufactured, and added to the fleet, with noise levels higher than required for new type designs under Part 36. This question is viewed as distinct from the retrofit question in two important ways. First, further aggravation of the aircraft noise problem is involved in continued production of the older aircraft types. This not only conflicts with the longstanding policy of the FAA against further noise escalation, but also, on an overall fleet noise basis, counteracts the acoustic benefit available from the introduction of new technology aircraft. This is unacceptable from an environmental management standpoint. It is also highly unfair to those progressive aircraft operators who are looking beyond immediate economic conditions to invest in environmentally superior aircraft, but who see the potential environmental benefits of this investment being retarded by further introduction of old technology aircraft.

The second distinction between the question of retrofit by aircraft operators and the question of further production of aircraft concerns economic impact and the Administrator's duty, under section 611(b)(4) of the Federal Aviation Act of 1958, to "consider whether any proposed standard, rule, or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft * * * to which it will apply." The FAA believes that the economic factors involved in mandatory modification of aircraft now in operation are significantly more negative than they are in the case of production line changes. Factors such as the costs of aircraft downtime and schedule disruption, and the factor of forced investment late in the depreciation schedule of an aircraft (in addition to the costs of the modifications themselves) are present in the retrofit question but not in the case of production line changes. From a cost/benefit standpoint, it appears that a given noise reduction can be achieved for far less cost on the production line than on the flight line.

Events tend to support a determination of economic reasonableness with respect to production changes needed to comply with Part 36. Voluntary compliance with Appendix C of Part 36 has been achieved in the production of two previously type certificated aircraft, one being an air carrier aircraft now in wide use and the other a smaller business jet. The FAA believes that this experience, and the results of continuing studies concerning the economic reasonableness and technological practicability of such modifications, together present a suitable legal foundation for institution of rule making proceedings under section 611.

This amendment reflects the requirement in section 611(a) of the Federal Aviation Act of 1958 that the Administrator shall issue noise abatement regulations "including the application of such standards, rules, and regulations in the issuance * * * of any certificate authorized by this title." Whereas the appropriate certificate for insuring that new type designs incorporate acoustical performance features is the type certificate, and Part 36 therefore currently governs the issuance of type certificates only, the airworthiness certificate is an appropriate title VI certificate for insuring that new production copies of previously type certificated aircraft incorporate acoustical performance design features prior to operation. This is the case because the airworthiness certificate is individually issued to each aircraft after production, and is therefore

useful as a means of distinguishing (e.g., by date of issuance) those particular aircraft within a production run that require noise compliance demonstration. This amendment therefore would use the standard category airworthiness certificate as the legal instrument for insuring compliance with the required noise standards.

Since the dates referred to in this proposal (July 1, 1973, for airplanes with maximum weights of more than 75,000 pounds, and July 1, 1974, for those weighing 75,000 pounds or less) are believed to involve the minimum lead times necessary for economically reasonable introduction of the required modifications, further restrictive language is needed to exclude aircraft produced before these dates (but for which standard category airworthiness certificates are issued on or after those dates). With respect to defining when an aircraft is produced, it is believed that the fact that flight has occurred is a good index of essentially completed production. Therefore, this proposal would apply only to aircraft that have not incurred any "flighttime" (as that term is defined in Part 1 of the Federal Aviation Regulations) before the specified dates.

On a related matter, an additional year (from July 1, 1973, to July 1, 1974) is provided for the manufacturers of the smaller aircraft since the costs of implementation of design changes are related to production rates and the production rates of the smaller aircraft are generally lower than those of the larger aircraft.

Future changes of Appendix C may be made that, while economically reasonable for new type designs, may not be reasonable in the case of production changes to aircraft of older types. Any such future amendments will not be automatically applied to the older aircraft. Rather, the progressive lowering of the noise limits for production of older aircraft, where accomplished, will be handled as an economic question separate from that of noise standards for new type certificates. For this reason, this proposal specifically identifies Appendix C, as effective on December 1, 1969, as the standard to be applied (see proposed § 36.1(d)).

Finally, under this proposal, foreign manufactured aircraft receiving U.S. standard category airworthiness certificates would receive the same regulatory treatment as U.S. manufactured aircraft.

The concept of U.S. acceptance of findings of compliance certified by the foreign government (in addition to the requisite finding of conformity and condition for safe operation by the Administrator) in § 21.183(c) would be extended to cover foreign findings of compliance with new § 36.1(d). This provision is contained in the second sentence of proposed § 21.183(e).

In consideration of the foregoing, Subchapter C of Chapter I of Title 14 of the Code of Federal Regulations would be amended as follows:

A. Part 21 of the Federal Aviation Regulations would be amended by adding a new § 21.183(e) to read as follows:

§ 21.183 Issue of standard airworthiness certificates for normal, utility, acrobatic, and transport category aircraft.

* * * * *

(e) For transport category or turbojet-powered subsonic airplanes that have not had any flighttime before the dates specified in § 36.1(d), no standard airworthiness certificate is originally issued under this section unless the Administrator finds that the type design complies with the noise requirements in § 36.1(d) in addition to the applicable airworthiness requirements in this section. For import aircraft, compliance with this paragraph is shown if the country in which the aircraft was manufactured certifies, and the Administrator finds, that § 36.1(d) and paragraph (c) of this section are complied with.

B. Part 36 of the Federal Aviation Regulations would be amended as follows:

1. The title would be amended to read "Part 36—Noise Standards: Aircraft Certification."

2. Section 36.1(a) would be amended and new § 36.1(d) would be added, all to read as follows:

§ 36.1 General.

(a) This part prescribes noise standards for the issue of type certificates and changes to those certificates, and for the issue of certain standard category airworthiness certificates, for subsonic transport category airplanes, and for subsonic turbojet-powered airplanes regardless of category.

* * * * *

(d) For the original issue of standard airworthiness certificates on and after the dates specified in this paragraph (regardless of date of application) for airplanes that have not had any flighttime before those dates, compliance with this part must be shown, including Appendix C as effective on December 1, 1969. This paragraph applies to certificates issued—

(1) On and after July 1, 1973, for airplanes with maximum weights of more than 75,000 pounds; and

(2) On and after July 1, 1974, for airplanes with maximum weights of 75,000 pounds or less.

This amendment is proposed under the authority of sections 313(a), 601, 603, and 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1431), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and Executive Order 11514, March 5, 1970).

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

RICHARD P. SKULLY,
Director,
Office of Environmental Quality.

[FR Doc.72-11428 Filed 7-24-72;8:49 am]

[14 CFR Part 39]

[Docket No. 12059]

SIAI MARCHETTI MODEL S.205 AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to specified SIAI Marchetti Model S.205 airplanes. There have been reports of the loss of wheel alignment on the main and nose landing gear on SIAI Marchetti Model S.205 airplanes caused by the seizing and failure of the torque link center hinge bolts and the torque link to landing gear leg pins. That condition could result in a landing accident. Since that condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would provide a means for periodic lubrication of the main and nose landing gear torque link pins and bolts on the specified SIAI Marchetti Model S.205 airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before August 24, 1972, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

SIAI MARCHETTI. Applies to SIAI Marchetti Model S.205 airplanes, Serial Numbers 001, 002, 003, 101 through 399, and 4-101 through 4-212.

Compliance required within the next 100 hours' time in service after the effective date of this AD unless already accomplished.

To provide a means for periodic lubrication of the main and nose landing gear torque link pins and bolts accomplished the following in accordance with SIAI Marchetti Service Bulletin No. SB 205B35 dated March 13, 1972, or an FAA-approved equivalent:

(a) Remove the existing main and nose landing gear center torque link hinge bolts and main and nose landing gear upper and lower torque link to landing gear pins.

(b) Clean the bushings by removing rust residue; install the following bolts, pins, and grease fittings in the locations indicated, and check the fit between the pins and bushings.

(1) Install new pins with grease fittings, P/N 205-9-043-01, in the upper and lower main gear torque link to main gear leg connections with the grease fittings pointing toward the airplane centerline.

(2) Install new bolts with grease fittings, P/N205-9-063-01, in the main landing gear upper to lower torque link connections.

(3) Install new pins, P/N 205-9-137-11 and P/N 205-9-138-11, in the upper and the lower torque link to nose landing gear leg connections, respectively, and install grease fittings, P/N 205-9-154-01.

(4) Install a new bolt with grease fittings, P/N 205-9-153-01, in the nose landing gear upper to lower torque link connection.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 18, 1972.

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

[FR Doc.72-11430 Filed 7-24-72;8:50 am]

[14 CFR Part 39]

[Docket No. 12060]

HAWKER SIDDELEY DE HAVILLAND MODEL DH-114 "HERON" AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Hawker Siddeley de Havilland Model DH-114 "Heron" airplanes. There has been a report of a fatal accident caused by the loss of generated electrical power that was not detected by the flight crew. The FAA has determined that the electrical system of the Model DH-114 does not provide for adequate warning to the flight crew of such a loss of generated electrical power. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require modification of the electrical system to provide a bus bar low voltage sensing unit, a bus bar low voltage light, and an essential service switch; an amendment to the flight manual to provide operating instructions for the modified electrical system; and a preventive maintenance check of the electrical distribution and generating system and repair, if necessary, on Hawker Siddeley de Havilland Model DH-114 "Heron" airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue, SW., Washington, DC 20591. All communications received on or before August 24, 1972, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION LTD. Applies to de Havilland Model DH-114 "Heron" airplanes.

Compliance required within the next 1,500 hours' time in service after the effective date of this AD unless already accomplished.

To prevent the possibility that a loss of generated electrical power would be undetected by the flight crew, accomplish the following:

(a) Modify the electrical system to incorporate a bus bar low voltage sensing unit, a bus bar low voltage warning light, and an essential service switch, designed and installed in accordance with paragraphs 5 and 6 of Hawker Siddeley Aviation Ltd., Technical News Sheet, Series: Heron (114), No. N.6., Issue 2, dated May 22, 1972, or an FAA-approved equivalent.

(b) Amend the "Normal and Emergency Procedures," Part B, of the "Operating Procedures" section, Section II, of the Airplane Flight Manual by adding the electrical system operation information contained in paragraphs 7 and 8, and Figure 1 of Hawker Siddeley Aviation Ltd., Technical News Sheet, Series: Heron (114) No. N.6., Issue 2, dated May 22, 1972, or an FAA-approved equivalent.

(c) The details of the modifications required by paragraph (a) and the amendment to the Airplane Flight Manual required by paragraph (b) must be approved by the Chief, Engineering and Manufacturing Branch of an FAA Region (or in the case of the Western Region, the Chief, Aircraft Engineering Division).

(d) Check the condition of the electrical distribution and generator system in accordance with paragraph 6 of Hawker Siddeley Aviation Ltd., Technical News Sheet, Series: Heron (114) No. N.6., Issue 2, dated May 22, 1972, or an FAA-approved equivalent, and repair, as necessary. The checks required by this paragraph may be performed by persons authorized to perform preventive maintenance under FAR 43.

NOTE: If the British Civil Aviation Authority has approved the details of the modification required by paragraph (a) or the amendment to the Airplane Flight Manual required by paragraph (b), FAA approval will be facilitated if proof of such approval accompanies the request for FAA approval.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 17, 1972.

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

[FR Doc.72-11429 Filed 7-24-72;8:50 am]

RENEGOTIATION BOARD

[32 CFR Parts 1472, 1477]

RENEGOTIATION REGULATIONS

Notice of Proposed Rule Making

The Renegotiation Board pursuant to section 109 of the Renegotiation Act of 1951, as amended (50 U.S.C.A., App. sec. 1211 et seq.), proposes to issue the following regulations not less than thirty (30) days after the date of this publication in the FEDERAL REGISTER.

Interested persons are hereby notified that any changes, to be considered, must be presented, in writing, to the Renegotiation Board, 2000 M Street, NW., Washington, DC 20446, within thirty (30) days after the date of this publication in the FEDERAL REGISTER.

Written material or suggestions submitted will be available for public inspection during regular business hours in the library at the principal office of the Board, 2000 M Street NW., Washington, DC.

Dated July 20, 1972.

RICHARD T. BURRESS,
Chairman.

PART 1472—CONDUCT OF RENEGOTIATION

This Part 1472 is amended as follows:

1. Section 1472.3 *Conduct of renegotiation by regional board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1472.3 Conduct of renegotiation by regional board.

(a) *Submission of additional information; preliminary meetings.* After a case has been assigned to a regional board for renegotiation, the regional board personnel assigned to the case will examine the standard form of contractor's report and other information submitted by the contractor and will determine what additional information is needed. When necessary, a preliminary meeting or meetings will be held with the contractor to discuss the information and data to be submitted by the contractor and the manner in which it is to be submitted. The contractor shall also be entitled in any case to submit, and in cases deemed appropriate will be invited to submit, a statement setting forth such further information, data, and representations as it may desire to have taken into consideration under the factors prescribed in section 103(e) of the act, and explained in Parts 1460 and 1490 of this chapter. A reasonable opportunity will be provided for the submission of any information, data, or representations that the contractor may be requested or invited to submit.

(b) *Disputed issues.* Before completing the reports described in paragraphs (e), (f), and (g) of this section, the regional board personnel assigned to the case will endeavor to resolve with the

contractor any issues or disputed matters of fact, law, or accounting. Upon its request, the contractor will be afforded a reasonable opportunity to present to such regional board personnel, both orally and in writing, any statements or arguments which the contractor desires to submit in support of its position on any such issues or matters.

(c) *Plant inspection.* In cases deemed appropriate or, in any event, in any case in which there exists a possibility of a determination of excessive profits, regional board personnel will, whenever practicable, with the consent of the contractor, visit and inspect the appropriate plant or site of the contractor, unless a visit of reasonably recent date was made to such plant or site in connection with the renegotiation of the contractor for an earlier fiscal year. Generally, a plant visit, if undertaken, will be made before the completion of the renegotiation report pursuant to paragraph (g) of this section.

(d) *Regional board member as renegotiator.* A regional board member who serves as the assigned renegotiator in a case will not be eligible thereafter to serve as a member of a panel of the regional board constituted pursuant to paragraph (k) of this section or to vote as a member of the regional board in the determination or recommendation made pursuant to paragraph (j) or (l) of this section.

(e) *Accounting report.* After all relevant financial, accounting, and related information has been obtained, the regional board accountant assigned to the case will prepare an accounting report which will include pertinent financial schedules and accounting data. A copy of the accounting report will be furnished to the contractor after approval thereof by the Director, Division of Accounting. The letter transmitting the accounting report will request the contractor to state, within a fixed time, its concurrence in or its objections to the Statement of Income (Schedule A) included in such report, and will invite its comments upon any other matters set forth therein. A copy of any modification thereafter made of the accounting report will be furnished to the contractor after approval thereof by the Director, Division of Accounting, and the contractor will be requested to state its concurrence in or its objections to such modification.

(f) *Clearance recommendation.* If the renegotiator assigned to the case, after considering the accounting report, all information and data submitted by the contractor, and all relevant procurement, performance and other information that shall have been obtained, concludes that the contractor did not realize excessive profits in the fiscal year under review, he will prepare a clearance recommendation which will include an analysis of the case under the statutory factors. Such recommendation will not be furnished to the contractor.

(g) *Renegotiation report.* If the renegotiator assigned to the case, after considering the accounting report, all information and data submitted by the contractor, and all relevant procurement, performance and other information that shall have been obtained, concludes that the contractor realized excessive profits in the fiscal year under review, he will prepare a renegotiation report which will include an analysis and evaluation of the case under the statutory factors and a recommendation with respect to the amount of such excessive profits. A copy of the renegotiation report will be furnished to the contractor after approval thereof by the Director, Division of Renegotiating, and after such furnishing is authorized by the Chairman of the Regional Board; and the contractor will be offered a renegotiation conference as provided in paragraph (i) of this section.

(h) *Clearance determination or recommendation.* A renegotiator's clearance recommendation will, upon its completion, and after approval thereof by the Director, Division of Renegotiating, be submitted to the regional board for consideration. If the decision of the regional board is that the contractor did did not realize any excessive profits, it will make and enter a determination, in a Class B case, or a recommendation, in a Class A case, to that effect, and will notify the contractor thereof by registered mail; and the clearance procedure set forth in Part 1473 of this chapter will be followed. In addition, in a Class B case, the regional board will provide the contractor with a memorandum of decision stating the basis for the determination, as provided in § 1477.3 of this chapter. In a Class A case, the regional board will provide the contractor with a memorandum of decision if and when the board notifies the regional board that it is in accord with the clearance recommended by the regional board. If the regional board declines to approve the clearance recommendation of the renegotiator, a renegotiation report will be prepared, which will be subject to the provisions of paragraph (g) of this section.

(i) *Renegotiation conference.* In any case in which the regional board does not make and enter a clearance determination or recommendation, after the renegotiation report has been furnished to the contractor a renegotiation conference will be held with the contractor by the regional board personnel assigned to the case, unless the contractor fails or declines to attend such a conference. At the conference the contractor will be afforded an opportunity to discuss the renegotiation report and any accounting adjustments reflected in the accounting report, as well as any information and data previously submitted by the contractor or otherwise obtained by the regional board, and any other matters considered pertinent to the case; and the possibilities of an agreement to eliminate excessive profits will be explored with the contractor. Whether or not a renegotiation conference is held, the contractor will be requested to notify the renegotiator, within the time fixed by him, whether the contractor is or is not willing to enter into an agreement to eliminate excessive profits.

(j) *Determination or recommendation without panel meeting.* (1) After such notification from the contractor to the renegotiator, and any further negotiations between them, or upon the failure of the contractor to furnish such notification within the time fixed therefor, the regional board personnel assigned to the case will submit the accounting report and the renegotiation report to the regional board, including any modifications of either thereof made as a result of the renegotiation conference or otherwise. At the same time the renegotiator will notify the contractor in writing of his recommendation to the regional board, including with his letter a copy of any modification of the renegotiation report, after approval thereof by the Director, Division of Renegotiating, and after such furnishing is authorized by the chairman of the regional board. Unless the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount of such recommendation, the letter from the renegotiator will request the contractor to state, within a fixed time, whether it desires to meet with a panel of the regional board as provided in paragraph (k) of this section.

(2) If the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount recommended to the regional board, or within the time fixed therefor does not request a meeting with a panel of the regional board, the regional board will make and enter, in a Class B case, its determination, or in a Class A case, its recommendation to the Board with respect to the amount of excessive profits, if any, of the contractor for the fiscal year under review, and will notify the contractor by registered mail of such determination or recommendation. The determination or recommendation of the regional board may be in an amount greater than, equal to, or less than the amount recommended by the renegotiator.

(3) If the decision of the regional board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed. In addition, in a Class B case, the regional board will provide the contractor with a memorandum of decision stating the basis for the determination, as provided in § 1477.3 of this chapter. In a Class A case, the regional board will provide the contractor with a memorandum of decision if and when the board notifies the regional board that it is in accord with the clearance recommended by the regional board.

(4) If the decision of the regional board is that the contractor realized excessive profits, it will afford the contractor a reasonable time, to be fixed by the regional board, to notify the regional board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the

amount of the determination or recommendation. In addition, unless the contractor shall have agreed to the amount so determined or recommended, the regional board will provide the contractor with a memorandum of decision stating the basis for the determination or recommendation, as provided in § 1477.3 of this chapter. After the notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the regional board, the procedure set forth in Part 1474 and Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be, will be followed.

(k) *Panel meeting.* In any case in which the contractor has not indicated its willingness to enter into an agreement to eliminate excessive profits in the amount recommended by the renegotiator to the regional board, the contractor shall be entitled, at its request, made within the time fixed pursuant to paragraph (j)(1) of this section, to meet with a panel of the regional board. Any written argument or other presentation which the contractor desires to submit to a panel, in addition to the material previously submitted by the contractor, should, whenever possible, be filed with the chairman of the panel reasonably in advance of the meeting. At the meeting the contractor will be afforded an opportunity to be heard on all matters considered pertinent to the case, including any unresolved issues or matters of fact, law, or accounting; and again, when appropriate, the possibilities of an agreement to eliminate excessive profits will be explored with the contractor.

(l) *Determination or recommendation after panel meeting.* (1) After the panel meeting provided in paragraph (k) of this section has been held, the panel will submit to the regional board its recommendation for final disposition of the case. Thereupon the regional board will make and enter, in a Class B case, its determination, or in a Class A case, its recommendation to the board with respect to the amount of excessive profits, if any, for the fiscal year under review, and will notify the contractor by registered mail of such determination or recommendation. The determination or recommendation of the regional board may be in an amount greater than, equal to, or less than the amount recommended by the panel.

(2) If the decision of the regional board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed. In addition, in a Class B case, the regional board will provide the contractor with a memorandum of decision stating the basis for the determination, as provided in § 1477.3 of this chapter. In a Class A case, the regional board will provide the contractor with a memorandum of decision if and when the Board notifies the regional board that it is in accord with the clearance recommended by the regional board.

(3) If the decision of the regional board is that the contractor realized excessive profits, it will afford the contractor a reasonable time, to be fixed by the regional board, to notify the regional board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the amount of the determination or recommendation. In addition, unless the contractor shall have agreed to the amount so determined or recommended, the regional board will provide the contractor with a memorandum of decision stating the basis for the determination or recommendation, as provided in § 1477.3 of this chapter. After the notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the regional board, the procedure set forth in Part 1474 or Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be, will be followed. In the event of the issuance of an order, if the Board does not initiate a review thereof, the contractor will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

2. Section 1472.4 *Conduct of renegotiation by Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1472.4 Conduct of renegotiation by Board.

(a) *Reasons for reassignment from a regional board.* A case will be reassigned from a regional board to the Board for further proceedings when (1) a regional board makes a recommendation in a Class A case with which the contractor or the Board is not in accord and when the Board does not direct the regional board to conduct further proceedings in the matter (see §§ 1473.2(a), 1474.3(a), and 1475.3(a) of this chapter); or (2) a regional board makes a determination by order in a Class B case and the Board initiates a review of such determination (see § 1475.3(b) of this chapter; or (3) the Board considers for any other reason that the further proceedings in the case should be conducted by the Board rather than by the regional board to which the case has been previously assigned.

(b) *Appointment of division.* Generally, after a case has been reassigned to the Board from a regional board, or after the Board has initiated review of a regional board determination, the case will be assigned to a division of the Board. The division will study the information and data assembled by the regional board and will determine what additional information or data, if any, is needed. The division will secure such additional information and data as it deems necessary and will conduct an independent study of the case. The division will not be bound or limited in any manner by any evaluation, recommendation, or determination of the regional board.

(c) *Division meeting.* In every Class A case reassigned pursuant to § 1475.3 of this chapter or paragraph (a)(3) of this section, the contractor will be afforded an opportunity to meet with the assigned division of the Board prior to the making of a determination. Any written argument or other presentation which the contractor desires to submit for consideration by the division, in addition to the material previously submitted by the contractor to the regional board, should, whenever possible, be filed with the Director, Office of Review, reasonably in advance of the meeting. Failure of the contractor to file information or arguments prior to the meeting will not preclude presentation thereof at the meeting. At the meeting the contractor will be afforded an opportunity to be heard on all matters considered pertinent to the case, including any unresolved issues or matters of fact, law, or accounting. Also, when appropriate, the division will explore with the contractor the possibilities of an agreement to eliminate excessive profits.

(d) *Board determination.* (1) After the division meeting provided in paragraph (c) of this section has been held, or after it has been determined that no such meeting is required, the division will submit to the Board its recommendation for final disposition of the case. Thereupon the Board will make and enter its determination with respect to the amount of excessive profits, if any, for the fiscal year under review, and will notify the contractor by registered mail of such determination. The determination of the Board may be in an amount greater than, equal to, or less than the amount of any determination or recommendation by the regional board. In addition, except in a refund case if the contractor shall have agreed to the amount of excessive profits so determined, the Board will provide the contractor with a memorandum of decision stating the basis for the determination, as provided in § 1477.3 of this chapter.

(2) If the determination of the Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(3) If the determination of the Board is that the contractor realized excessive profits, the Board will afford the contractor a reasonable time, to be fixed by the Board, to notify the Board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the amount of the determination. After such notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the Board, the procedure set forth in Part 1474 or Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be, will be followed. In the event of the issuance of an order the contractor will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

PART 1477—STATEMENTS TO CONTRACTORS

This Part 1477 is amended as follows:

1. Section 1477.3 *Furnishing of other statements* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1477.3 Furnishing of other statements.

When a regional board had made a determination in a Class B case, or a recommendation of excessive profits in a Class A case, or a clearance recommendation in a Class A case with which the Board has concurred, or when the Board has made a determination, the regional board or the Board, as the case may be, except in a refund case if the contractor shall have agreed to the amount so determined or recommended, will furnish to the contractor a memorandum of decision stating the basis for the determination or recommendation. See §§ 1472.3 and 1472.4 of this chapter. When furnished in a refund case, the memorandum will assist the contractor to decide whether or not to enter into an agreement.

§ 1477.4 [Amended]

2. Section 1477.4 *Contents of statements* is amended in the following respects:

a. Paragraph (a) is amended by deleting "or summary furnished pursuant to this part" and inserting in lieu thereof "furnished pursuant to § 1477.2".

b. Paragraphs (b) and (d) are amended by deleting "or summary" in each thereof.

c. Paragraph (f) is deleted in its entirety and the following is inserted in lieu thereof:

(f) In general, in a statement furnished pursuant to § 1477.2, every reasonable effort will be made to be responsive to the contentions of the contractor and to provide the contractor, by adequate presentation of the essential facts and reasons involved in the determination, with a basis upon which to evaluate the determination and to decide whether or not to file a petition with the Court of Claims for a redetermination thereof (see Part 1475 of this chapter).

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. sec. 1219)

[FR Doc.72-11432 Filed 7-24-72;8:51 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Aberdeen Area Office Redelegation Order 2, Amdt. 18]

SUPERINTENDENTS, ROSEBUD AND STANDING ROCK AGENCIES

Delegation of Authority on Land Acquisitions, Partitions, Exchanges, and Sales

JULY 5, 1972.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in section 25 of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Director in 10 BIAM 3.

The Aberdeen Area Office Redelegation Order 2 published on page 8756 of the December 21, 1954, issue of the FEDERAL REGISTER (19 F.R. 8756), as amended, is further amended by adding a new section 3.135 under the heading "Functions Relating to Lands and Minerals" in Part 3—Authority of Specifically Designated Employees. The new section gives the Superintendents of the Rosebud and Standing Rock Agencies authority to approve acquisitions, partitions, exchanges, and sales of trust or restricted lands between individual Indians, or between individual Indians and the Tribe.

Section 3.135 is added to read as follows:

SEC. 3.135 *Approval for land acquisitions, partitions, exchanges, and sales—Rosebud and Standing Rock Agencies.* The Superintendents of the Rosebud and Standing Rock Agencies may exercise all of the authority of the Area Director relating to the approval of acquisitions, partitions, exchanges, and sales of trust or restricted lands between individual Indians, or between individual Indians and the Tribe: *Provided*, That, the title to the land remains in a trust or restricted status; that fair market value is received by the Indian landowner in any transaction approved under this authority; and that all approved title documents be submitted to the Aberdeen Area Office for recording in the Area Title Plant.

DON Y. JENSEN,
Acting Area Director.

Approved: July 14, 1972.

JOHN O. CROW,
Deputy Commissioner of Indian Affairs.

[FR Doc.72-11396 Filed 7-24-72;8:46 am]

National Park Service

[Order 2]

ADMINISTRATIVE OFFICER, BIG BEND NATIONAL PARK

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $1,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Revocation.* This order supersedes Order No. 1, as amended, Big Bend National Park, published December 23, 1964. (29 F.R. 18239, December 23, 1964)

(National Park Service Order No. 66, 36 F.R. 21218, as amended 37 F.R. 4001, dated February 25, 1972; Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 25, 1972.

J. F. CARITHERS,
Superintendent, Big Bend National Park.

[FR Doc.72-11398 Filed 7-24-72;8:46 am]

[Order 3]

ADMINISTRATIVE OFFICER AND GENERAL SUPPLY ASSISTANT, CARLSBAD CAVERNS NATIONAL PARK

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised in behalf of any area administered by Carlsbad Caverns National Park.

SEC. 2 *General Supply Assistant.* The General Supply Assistant may execute and approve contracts not in excess of $2,000 for supplies, equipment and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised in behalf of any area administered by Carlsbad Caverns National Park.

SEC. 3 *Revocation.* This order supersedes Order No. 2, Carlsbad Caverns National Park, dated September 14, 1966, and published October 8, 1966. (31 F.R. 13093, October 8, 1966)

(National Park Service Order No. 66, 36 F.R. 21218, as amended 37 F.R. 4001, dated February 25, 1972; Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 25, 1972.

DONALD A. DAYTON,
Superintendent, Carlsbad Caverns and Guadalupe Mountains National Parks.

[FR Doc.72-11400 Filed 7-24-72;8:47 am]

[Order 3]

ADMINISTRATIVE OFFICER AND MANAGEMENT ASSISTANT, CASTILLO DE SAN MARCOS NATIONAL MONUMENT

Delegation of Authority Regarding Execution of Contracts for Supplies, Equipment or Services

1. *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of any office or area administered by Castillo de San Marcos National Monument.

2. *Management Assistant, Fort Matanzas National Monument.* The Management Assistant, Fort Matanzas National Monument may issue purchase orders not in excess of $500 for supplies, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

3. *Revocation.* This order supersedes Order No. 2 issued June 5, 1967. (32 F.R. 10520 dated July 18, 1967)

(National Park Service Order No. 66, 36 F.R. 21218, as amended, 37 F.R. 4001; Southeast Region Order No. 5, 37 F.R. 7721)

Dated: May 16, 1972.

GEORGE F. SCHESVENTER,
Superintendent.

[FR Doc.72-11399 Filed 7-24-72;8:47 am]

[Order 2]

ADMINISTRATIVE CLERK, CHALMETTE NATIONAL HISTORICAL PARK

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Clerk.* The Administrative Clerk may issue purchase orders not in excess of $500 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Revocation.* This order supersedes Order No. 1, Chalmette National Historical Park, dated October 5, 1966,

and published November 5, 1966. (31 F.R. 14319)

(National Park Service Order No. 66, 36 F.R. 21218, as amended, 37 F.R. 4001, dated February 25, 1972; Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 30, 1972.

ARTHUR HEHR,
Superintendent, Chalmette National Historical Park.

[FR Doc.72-11401 Filed 7-24-72;8:47 am]

[Order 1]

ADMINISTRATIVE CLERK, CHAMIZAL NATIONAL MEMORIAL

Delegation of Authority Regarding Purchasing Authority

Administrative Clerk. The Administrative Clerk may issue purchase orders not in excess of $250 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(National Park Service Order No. 66, 36 F.R. 21218, as amended 37 F.R. 4001 dated Feb. 25, 1972. Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 30, 1972.

FRANKLIN G. SMITH,
Superintendent, Chamizal National Memorial.

[FR Doc.72-11402 Filed 7-24-72;8:47 am]

[Order 6]

ADMINISTRATIVE OFFICER ET AL., EVERGLADES NATIONAL PARK AND FORT JEFFERSON NATIONAL MONUMENT

Delegation of Authority Regarding Execution of Contracts and Purchase Orders for Supplies, Equipment, and Services

1. *Administrative Officer and Supply Officer.* The Administrative Officer and Supply Officer, Everglades National Park, may execute, approve, and administer contracts and issue purchase orders not in excess of $25,000 for equipment, supplies, and services, in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Administrative Officer and Supply Officer in behalf of any coordinated area.

2. *General Supply Assistant.* The General Supply Assistant, Everglades National Park, may issue purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the General Supply Assistant in behalf of any coordinated area.

3. *District Park Ranger.* The District Park Ranger at Everglades City, Everglades National Park, may issue field purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

4. *Maintenance Foreman Park General.* The Maintenance Foreman Park General, Everglades National Park, may issue field purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

5. *Park Manager, Park Ranger, and Captain-Engineer.* The Park Manager, Park Ranger, and Captain-Engineer, Fort Jefferson National Monument, may issue field purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

6. *Revocation.* This order supersedes Everglades National Park Order No. 5, dated January 24, 1968, and published in 33 F.R. (4424-5) dated March 12, 1968.

(National Park Service Order No. 66, 36 F.R. 21218, as amended; 37 F.R. 4001. Southeast Region Order No. 5, 37 F.R. 7721)

Dated: May 3, 1972.

JACK E. STARK,
Superintendent, Everglades National Park.

[FR Doc.72-11403 Filed 7-24-72;8:47 am]

[Order 3]

ADMINISTRATIVE OFFICER, FORT DAVIS NATIONAL HISTORIC SITE

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Revocation.* This order supersedes Order No. 2, Fort Davis National Historic Site, dated February 26, 1971, and published March 26, 1971 (36 F.R. 5714, March 26, 1971).

(National Park Service Order No. 66, 36 F.R. 21218, as amended; 37 F.R. 4001, dated February 25, 1972. Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 19, 1972.

DEREK O. HAMBLY,
Superintendent, Fort Davis National Historic Site.

[FR Doc.72-11404 Filed 7-24-72;8:47 am]

[Order 1]

ADMINISTRATIVE CLERK, GOLDEN SPIKE NATIONAL HISTORIC SITE

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Clerk.* The Administrative Clerk may issue purchase orders not in excess of $500 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Dated: June 12, 1972.

WILLIAM T. KRUEGER,
Superintendent, Golden Spike National Historic Site.

[FR Doc. 72-11405 Filed 7-24-72;8:47 am]

[Order 2]

ADMINISTRATIVE OFFICER, ET AL., HOT SPRINGS NATIONAL PARK

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of $50,000 for construction, supplies, equipment, and services, in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of any office or area within the Hot Springs Group.

SEC. 2 *Clerk, GS-6.* The Clerk may issue purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 3 *Supervisory Park Rangers.* Supervisory Park Rangers in Grades GS-12 and above may issue purchase orders not in excess of $300 for supplies or equipment in accordance with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 4 *Maintenance Supervisor.* The Maintenance Supervisor may issue purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 5 *Revocation.* This order supersedes Order No. 1, Hot Springs National Park, dated February 28, 1963, and published March 22, 1963. (28 F.R. 2866.)

(National Park Service Order No. 66, 36 F.R. 21218, as amended 37 F.R. 4001, dated February 25, 1972. Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 19, 1972.

B. T. CAMPBELL,
Superintendent, Hot Springs National Park.

[FR Doc.72-11407 Filed 7-24-72;8:47 am]

[Order 2]

ADMINISTRATIVE OFFICER AND CHIEF, INTERPRETATION AND RESOURCE MANAGEMENT, LEHMAN CAVES NATIONAL MONUMENT

Delegation of Authority Regarding Execution of Purchase Orders for Supplies, Equipment or Services

SECTION 1 *Administrative Officer.* The Administrative Officer and Chief, Inter-

pretation and Resource Management may, in the absence of the Superintendent, issue purchase orders not in excess of $1,000 for supplies, equipment, or services in conformity with applicable regulations and subject to availability of appropriated funds.

SEC. 2 *Redelegation.* The authority delegated in section 1, above, may not be redelegated.

SEC. 3 *Revocation.* This order supersedes Order No. 1, as published in 28 F.R. 6579, dated 6/26/63.

(National Park Service Order No. 66, 36 F.R. 21218; as amended 37 F.R. 4001, dated February 25, 1972. Western Region Order No. 7, 37 F.R. 6326, dated March 28, 1972)

Dated: May 16, 1972.

ELBERT L. ROBINSON,
Superintendent.

[FR Doc.72-11408 Filed 7-24-72;8:47 am]

[Order 2]

ADMINISTRATIVE OFFICER AND SUPPLY CLERK, NAVAJO LANDS GROUP

Delegation of Authority Regarding Purchasing and Contracting Authority

SECTION 1 *Administrative Officer.* The Administrative Officer is authorized to execute, approve, and administer contracts, and to issue purchase orders for equipment, supplies, or services in amounts not in excess of $50,000, in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of and unit under the administration of the Navajo Lands Group.

SEC. 2 *Supply Clerk.* The Supply Clerk may issue purchase orders not in excess of $300 for equipment, supplies, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Supply Clerk in behalf of any unit under the jurisdiction of the Navajo Lands Group.

SEC. 3 *Revocation.* This order supersedes Order No. 1, Navajo Lands Group, dated August 13, 1968, and published August 24, 1968 (33 F.R. 12059, August 24, 1968).

(National Park Service Order No. 66, 36 F.R. 21218, as amended 37 F.R. 4001, dated February 25, 1972. Southwest Region Order No. 5, 37 F.R. 7722)

Dated: May 18, 1972.

ARTHUR H. WHITE,
General Superintendent, Navajo Lands Group.

[FR Doc.72-11409 Filed 7-24-72;8:48 am]

[Order 1]

ADMINISTRATIVE OFFICER ET AL., NEW MEXICO ARCHEOLOGICAL CENTER

Delegation of Authority Regarding Purchasing and Contracting Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $1,000 for contracts, supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Supervisory Archeologist.* The Supervisory Archeologist may issue purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 3 *Archeologist GS-11.* The Archeologist GS-11 may issue purchase orders not in excess of $300 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(National Park Service Order No. 63, 36 F.R. 5629, dated December 22, 1970, and published March 25, 1971, 36 F.R. 5629, March 25, 1971)

ROBERT H. LISTER,
Chief, New Mexico Archeological Center.

[FR Doc.72-11410 Filed 7-24-72;8:48 am]

[Order 2]

ADMINISTRATIVE OFFICER AND SUPPLY CLERK, OZARK NATIONAL SCENIC RIVERWAYS

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $2,000 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Supply Clerk.* The Supply Clerk may issue purchase orders not in excess of $500 for supplies and equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 3 *Revocation.* This order supersedes Order No. 1, Ozark National Scenic Riverways, dated November 1, 1965, and published at 30 F.R. 14606, November 24, 1965.

(National Park Service Order No. 66, 36 F.R. 21218, as amended, 37 F.R. 4001, dated February 25, 1972. Midwest Region Order No. 5, 37 F.R. 6324 and 6875)

Dated: June 23, 1972.

RANDALL R. POPE,
Superintendent, Ozark National Scenic Riverways.

[FR Doc.72-11411 Filed 7-24-72;8:48 am]

[Order 3]

ADMINISTRATIVE OFFICER, PADRE ISLAND NATIONAL SEASHORE

Delegation of Authority Regarding Execution of Contracts for Supplies, Equipment, or Services

SECTION 1 *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Revocation.* This order supersedes Order No. 1, Padre Island National Seashore, dated October 23, 1964, and published November 19, 1964 (29 F.R. 15542, November 19, 1964), and Order No. 2, Padre Island National Seashore, dated November 2, 1964, and published November 26, 1964 (29 F.R. 15875, November 26, 1964).

(National Park Service Order No. 66, 36 F.R. 21218, as amended 37 F.R. 4001, dated February 25, 1972. Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 30, 1972.

JAMES L. MCLAUGHLIN,
Superintendent, Padre Island National Seashore.

[FR Doc.72-11412 Filed 7-24-72;8:48 am]

[Order 2]

ADMINISTRATIVE OFFICER, PLATT NATIONAL PARK, ARBUCKLE RECREATION AREA

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised in behalf of any area administered by Platt National Park.

SEC. 2 *Revocation.* This order supersedes Order No. 1, Platt National Park, dated December 20, 1963, and published January 22, 1964 (29 F.R. 533, January 22, 1964).

(National Park Service Order No. 66, 36 F.R. 21218, as amended 37 F.R. 4001, dated February 25, 1972. Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 23, 1972.

JOHN C. HIGGINS,
Superintendent, Platt National Park, Arbuckle Recreation Area.

[FR Doc.72-11413 Filed 7-24-72;8:48 am]

[Order 2]

ADMINISTRATIVE OFFICER AND PURCHASING AGENT, POINT REYES NATIONAL SEASHORE

Delegation of Authority Regarding Execution of Purchase Orders for Supplies, Equipment, or Services

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Purchasing Agent.* The Purchasing Agent may issue purchase orders not in excess of $500 for supplies or equipment in conformity with applicable

regulations and statutory authority and subject to availability of appropriated funds.

SEC. 3 *Redelegation.* The authority delegated in sections 1 and 2 above, may not be redelegated.

SEC. 4 *Revocations.* This order supersedes all previous orders delegating authority regarding the execution of purchase orders for supplies, equipment, or services at Point Reyes National Seashore.

(National Park Service Order No. 66, 36 F.R. 21218, as amended, 37 F.R. 4001, dated February 25, 1972. Western Region Order No. 7, 37 F.R. 6326, dated March 28, 1972)

Dated: June 16, 1972.

JOHN L. SANSING,
Superintendent,
Point Reyes National Seashore.

[FR Doc.72-11414 Filed 7-24-72;8:48 am]

[Order 6]

ASSISTANT SUPERINTENDENT ET AL., ROCKY MOUNTAIN NATIONAL PARK

Delegation of Authority Regarding Execution of Contracts and Purchase Orders for Supplies, Equipment, or Services

SECTION 1 *Assistant Superintendent and Administrative Officer.* The Assistant Superintendent and Administrative Officer may execute and approve contracts not in excess of $100,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised on behalf of any office or area under the supervision of the Superintendent of Rocky Mountain National Park.

SEC. 2 *Procurement and Property Management Officer.* The Procurement and Property Management Officer may execute and approve contracts not in excess of $25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised on behalf of any office or area under the supervision of the Superintendent of Rocky Mountain National Park.

SEC. 3 *Assistant Procurement and Property Management Officer and General Supply Assistant.* The Assistant Procurement and Property Management Officer and General Supply Assistant may issue purchase orders not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised on behalf of any office or area under the supervision of the Superintendent of Rocky Mountain National Park.

SEC. 4 *Chief Park Ranger, Assistant Chief Park Ranger, East District Park Ranger, West District Park Ranger, Maintenance Supervisor, Foreman III Maintenance, Foreman III Buildings and Utilities and Foreman III Shop.* The Chief Park Ranger, Assistant Chief Park Ranger, East District Park Ranger, West District Park Ranger, Maintenance Supervisor, Foreman III Maintenance, Foreman III Buildings and Utilities, and Foreman III Shop may issue purchase orders not in excess of $100 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised on behalf of any office or area under the supervision of the Superintendent of Rocky Mountain National Park.

SEC. 5 *Revocation.* This order supersedes Order No. 5, Rocky Mountain National Park, dated November 26, 1963, and published at 28 F.R. 13753, December 17, 1963.

Dated: June 5, 1972.

ROGER J. CONTOR,
Superintendent,
Rocky Mountain Group.

[FR Doc.72-11415 Filed 7-24-72;8:48 am]

[Order 3]

ADMINISTRATIVE OFFICER, SANFORD RECREATION AREA

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Revocation.* This order supersedes Order No. 2, Sanford Recreation Area, dated September 23, 1970, and published October 24, 1970. (35 F.R. 16598, October 24, 1970.)

(National Park Service Order No. 66, 36 F.R. 21218, as amended 37 F.R. 4001, dated February 25, 1972. Southwest Region, Order No. 5, 37 F.R. 7722)

Dated: May 18, 1972.

JAMES M. THOMSON,
Superintendent,
Sanford Recreation Area.

[FR Doc.72-11416 Filed 7-24-72;8:48 am]

[Order 6]

ASSISTANT SUPERINTENDENT ET AL., SEQUOIA AND KINGS CANYON NATIONAL PARKS

Delegation of Authority Regarding Execution of Purchase Orders for Supplies, Equipment, or Services

1. *Assistant Superintendent and Administrative Officer.* The Assistant Superintendent and the Administrative Officer may execute, approve, and administer contracts and issue purchase orders for supplies, equipment, and services not to exceed $200,000 in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds. This authority may be exercised by the Assistant Superintendent and the Administrative Officer on behalf of any coordinated area.

2. *Procurement and Property Management Officer.* The Procurement and Property Management Officer may execute, approve, and administer contracts and issue purchase orders for supplies, equipment, and services not to exceed $50,000 in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds. This authority may be exercised by the Procurement and Property Management Officer on behalf of any coordinated area.

3. *Procurement Agent.* The Procurement Agent may execute, approve, and administer contracts and issue purchase orders for supplies, equipment, and services not to exceed $10,000 in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds. This authority may be exercised by the Procurement Agent on behalf of any coordinated area.

4. *Property and Supply Supervisor and Warehouseman.* The Property and Supply Supervisor and the Warehouseman may execute, approve, and administer contracts and issue purchase orders for supplies, equipment, and services not to exceed $500 in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds. This authority may be exercised by the Property and Supply Supervisor and the Warehouseman on behalf of any coordinated area.

5. *Redelegation.* The authority delegated in 1, 2, 3, and 4, above, may not be redelegated.

6. *Revocations.* This order supersedes Order No. 5, as published in 29 F.R. 5355, dated April 21, 1964.

(National Park Service Order No. 66, 36 F.R. 21218, as amended, 37 F.R. 4001, dated February 25, 1972; Western Region Order No. 7, 37 F.R. 6326, dated March 28, 1972)

Dated: May 22, 1972.

JOHN S. MCLAUGHLIN,
Superintendent, Sequoia and Kings Canyon National Parks.

[FR Doc.72-11417 Filed 7-24-72;8:48 am]

[Order 2]

ADMINISTRATIVE OFFICER ET AL., WIND CAVE NATIONAL PARK

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $2,000 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Chief Interpretation and Resource Management, Assistant Chief Interpretation and Resource Management, Maintenance Supervisor, Management Assistant.* The Chief Interpretation and Resource Management, Assistant Chief Interpretation and Resource Manage-

ment Maintenance Supervisor, and Management Assistant may issue purchase orders not in excess of $300 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability to appropriated funds.

SEC. 3 *Revocation.* This order supersedes Order No. 1, Wind Cave National Park, dated April 1, 1963, and published May 9, 1963. (28 F.R. 4678, May 9, 1963.)

(National Park Service Order No. 66, 36 F.R. 21218, as amended; 37 F.R. 4001, dated February 25, 1972. Midwest Region Order No. 5, 37 F.R. 6324 and 6875)

Dated: May 10, 1972.

LESTER F. MCCLANAHAN,
Superintendent,
Wind Cave National Park.

[FR Doc.72-11406 Filed 7-24-72;8:47 am]

[Order 4]

DEPUTY SUPERINTENDENT ET AL., YOSEMITE NATIONAL PARK

Delegation of Authority Regarding Execution of Purchase Orders for Supplies, Equipment, or Services

SECTION 1 *Deputy and Assistant Superintendents et al.* The Deputy Superintendent, the Assistant Superintendents, and the Administrative Officer may issue purchase orders not in excess of $50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2 *Procurement and Property Management.* The procurement and Property Management Officer may issue purchase orders not in excess of $25,000 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 3 *Purchasing Agent.* The Purchasing Agent may issue purchase orders not in excess of $10,000 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability to appropriated funds.

SEC. 4. *Redelegation.* The authority delegated in sections 1, 2, and 3, above, may not be redelegated.

SEC. 5 *Revocation.* This order supersedes Order No. 3.

(National Park Service Order No. 66, 36 F.R. 21218, as amended, 37 F.R. 4001, dated February 25, 1972. Western Region Order No. 7, 37 F.R. 6326, dated March 28, 1972)

Dated: May 31, 1972.

LYNN H. THOMPSON,
Superintendent,
Yosemite National Park.

[FR Doc.72-11418 Filed 7-24-72;8:48 am]

Office of the Secretary

[FES 72-22]

CANYON LAKES PROJECT, LUBBOCK, TEX.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Bureau of Outdoor Recreation has prepared a final environmental statement for the proposed Canyon Lakes Project, Lubbock, Tex. The environmental statement considers the probable impact of acquiring approximately 350 acres of land and construction of a series of six earthfill dams to form recreation lakes. A greenbelt/recreation area will result by utilizing other federally assisted acquisitions, city-owned land, and State park property.

Copies are available for inspection at the following locations:

Office of Communications, Room 7200, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-4662.

Office of Information and Golden Eagle Program, Bureau of Outdoor Recreation, Room 4129, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-5726.

Office of Regional Director, Bureau of Outdoor Recreation, Post Office Box 25387, Building 41, Denver Federal Center, Denver, Colo. 80225, Telephone: (303) 234-2634.

State Clearinghouse, Division of Planning Coordination, Office of the Governor, Drawer P, Capitol Station, Austin, Tex. 78711.

Metropolitan Clearinghouse, South Plains Association of Governments, 514 Lubbock National Bank Building, Lubbock, Tex. 79401.

Copies may be obtained by writing the National Technical Information Service, Department of Commerce, Springfield, Va. 22151, and enclosing $3. Please refer to the statement number above.

Dated: July 19, 1972.

W. W. LYONS,
Deputy Assistant Secretary
of the Interior.

[FR Doc.72-11397 Filed 7-24-72;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-435; NADA 9-843V]

BURROUGHS WELLCOME CO. (U.S.A.), INC.

Succinylcholine Chloride; Notice of Withdrawal of Approval of New Animal Drug Application

In the FEDERAL REGISTER of February 18, 1970 (35 F.R. 3125, DESI 9843V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Anectine, NADA (new animal drug application) No. 9-843V, by Burroughs Wellcome Co. (U.S.A.), Inc., 3030 Cornwallis Road, Research Triangle Park, NC 27709.

Burroughs Wellcome Co. (U.S.A.), Inc., responded to the announcement by advising the Commissioner that the distribution of said drug has been discontinued and by requesting that approval of NADA No. 9-843V be withdrawn.

Based on the grounds set forth in said announcement and the firm's response, the Commissioner concludes that said new animal drug application should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120) approval of NADA No. 9-843V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document (7-25-72).

Dated: July 14, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.72-11386 Filed 7-24-72;8:45 am]

[FAP 2B2757]

E. I. DU PONT DE NEMOURS AND CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2757) has been filed by E. I. du Pont de Nemours and Co., 1007 Market Street, Wilmington, Del. 19898, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of basic copolymers manufactured by the catalytic copolymerization of ethylene and propylene containing as modifier not more than 5 weight-percent of total polymer units derived by copolymerization with 1,4-hexadiene, and utilizing 2,6 - di(alpha-methylbenzyl) p-cresol as a component of the stabilizing system.

Dated: July 12, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-11387 Filed 7-24-72;8:45 am]

[FAP 2B2802]

FOOD AND DRUG RESEARCH LABORATORIES, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409

(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2802) has been filed by Food and Drug Research Laboratories, Inc., Waverly Division, Post Office Box 107, Waverly, N.Y. 14892, proposing that § 121.2569 *Resinous and polymeric coatings for polyolefin films* (21 CFR 121.2569), be amended to provide for the safe use of azelaic acid and gum rosin in the production of polyester resins used in resinous and polymeric coatings for food-contact polyolefin films.

Dated: July 14, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-11385 Filed 7-24-72;8:45 am]

[Docket No. FDC-D-489; NDA 6-449]

McGAW LABORATORIES

Large Volume Procaine Hydrochloride Parenteral Solutions; Notice of Withdrawal of Approval of New Drug Application

In the FEDERAL REGISTER of August 19, 1971 (36 F.R. 16127), the Commissioner of Food and Drugs announced (DESI 6449) his conclusions pursuant to evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, concerning the following drugs:

NDA 6-449; 0.2 percent Procaine Hydrochloride in Normal Saline, 0.1 percent Procaine Hydrochloride in Normal Saline, 0.2 percent Procaine Hydrochloride in 0.45 percent Sodium Chloride; McGaw Laboratories (successor to Don Baxter Inc.) 1015 Grandview Avenue, Glendale, Calif. 91201.

The announcement stated that the drugs were regarded as either lacking substantial evidence of effectiveness or possibly effective for the various labeled indications. Six months from the date of that publication were allowed for the holder of the application and any person marketing such drug without approval to obtain and submit data providing substantial evidence of effectiveness of the drug for the possibly effective indications. No such data have been received and the holder of said new drug application has requested withdrawal of approval of its new drug application and has waived opportunity for a hearing, stating that marketing of the drugs was discontinued in 1971.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)), and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to said drugs, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of new drug application No. 6-449, and all amendments and supplements thereto, is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER (7-25-72).

Dated: July 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11388 Filed 7-24-72;8:45 am]

[FAP 2B2812]

PPG INDUSTRIES, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2812) has been filed by PPG Industries, Inc., Post Office Box 312, Delaware, Ohio 43015 proposing that § 121.2514 *Resinous and polymeric coatings* (21 CFR 121.2514) be amended in paragraph (b)(3)(xx) to provide for the additional safe use of the item beginning "Butyl acrylate-styrene-methacrylic acid-hydroxyethyl methacrylate copolymers" as a repair surface for coatings intended to contact food at temperatures above 150° F.

Dated: July 16, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-11389 Filed 7-24-72;8:46 am]

[FAP 2B2814]

ROHM AND HAAS CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2814) has been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing that § 121.2514 *Resinous and polymeric coatings* (21 CFR 121.2514) be amended to provide for the safe use of copolymers of ethyl acrylate, methyl methacrylate, styrene, methacrylic acid, and hydroxypropyl methacrylate as modifiers for mixtures of melamineformaldehyde resins and epoxy resins in food-contact coatings.

Dated: July 12, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-11390 Filed 7-24-72;8:46 am]

[FAP 2B2807]

SYBRON CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348-(b)(5)), notice is given that a petition (FAP 2B2807) has been filed by Taylor Instrument Process Control Division, Sybron Corp., 95 Ames Street, Rochester, N.Y. 14601, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of an antimony electrode control device for measuring pH in the processing of liquid or semiliquid food products.

Dated: July 14, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-11391 Filed 7-24-72;8:46 am]

[DESI 7249]

CERTAIN ANTITUSSIVE PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Toclase Expectorant containing carbetapentane citrate and terpin hydrate; Pfizer Laboratories, Division Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017 (NDA 9-742).

2. Para Hycodan Tablets and Syrup containing hydrocodone bitartrate, hydrocodone terephthalate, homatropine terephthalate and pentylenetetrazol; Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, Long Island, N.Y. 11533 (NDA 7-249).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

I. CARBETAPENTANE CITRATE AND TERPIN HYDRATE

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is possibly effective for relief of cough.

B. *Marketing status.* Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

II. HYDROCODONE BITARTRATE, HYDROCODONE TEREPHTHALATE, HOMATROPINE TEREPHTHALATE, AND PENTYLENETETRAZOL

The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that such fixed combination drugs will have the effects they purport or are repre-

sented to have under the conditions of use prescribed, recommended, or suggested in the labeling. The holder of the new drug application has indicated that these preparations are no longer marketed.

A notice was published in the FEDERAL REGISTER of February 8, 1972 (37 F.R. 2851) withdrawing approval of NDA 7–249 on the grounds that reports required under section 505(j) of the Act and §§ 130.13 and 130.35 (e) and (f) of the new drug regulations (21 CFR 130.13 and 130.35) had not been submitted. Accordingly, no further action under the Drug Efficacy Study Implementation is indicated. However, if any related drug for human use, not the subject of an approved new drug application, is on the market, it may be affected by the effectiveness classification described above.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 7249, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD–67), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: June 28, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–11392 Filed 7–24–72;8:46 am]

[DESI 1543; Docket No. FDC–D–405; NDA 1543 etc.]

CERTAIN ESTROGEN-CONTAINING DRUGS FOR ORAL OR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

I. SHORT-ACTING ESTROGENS

1. *Preparations containing ethinyl estradiol.* a. Estinyl Tablets; Schering Corp., 60 Orange Street, Bloomfield, N.J. 07003 (NDA 5–292).

b. Lynoral Tablets; Organon, Inc., 375 Mount Pleasant Avenue, West Orange, N.J. 07052 (NDA 5–490).

2. *Preparations containing estradiol dipropionate.* a. Ovocylin Dipropionate Injection; Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 740).

3. *Preparations containing estrone.* a. Theelin Aqueous Suspension; Parke, Davis and Co., Joseph Campau Avenue, At the River, Detroit, Mich. 48232 (NDA 3–977).

b. Estrugenone Suspension, Kremers-Urban Co., Post Office Box 2038, 5600 West County Line Road, Milwaukee, Wis. 53201 (NDA 1–543).

c. Estrone Aqueous Suspension; Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 4–823).

4. *Preparations containing conjugated estrogens.* a. Premarin Tablets; Ayerst Laboratories, Division American Home Products Corp., 685 Third Avenue, New York, N.Y. 10017 (NDA 4–782).

b. Premarin Intravenous; Ayerst Laboratories (NDA 10–402).

5. *Preparations containing methallenestril.* a. Vallestril Tablets; G. D. Searle and Co., Post Office Box 5110, Chicago, Ill. 60680 (NDA 8–579).

II. LONG-ACTING ESTROGENS

1. *Preparations containing chlorotrianisene.* a. Tace 12 and 25 mg. Capsules; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 110 East Amity Road, Cincinnati, Ohio 45215 (NDA 8–102 and NDA 11–444) (two reports).

2. *Preparations containing estradiol valerate.* a. Delestrogen; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 9–402).

3. *Preparations containing polyestradiol phosphate.* a. Estradurin; Ayerst Laboratories (NDA 10–753).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications for these drugs under the conditions described in this announcement.

I. SHORT-ACTING ESTROGENS

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are:

1. Effective or probably effective for the indications described in the labeling conditions which follow. The probably effective indication is "in selected cases of osteoporosis."

2. Possibly effective for disturbances of the menstrual cycle (hypomenorrhea, oligomenorrhea, irregular cycles); suppression of lactation; to minimize blood loss at surgery, lessen the incidence of postoperative hemorrhage, and avoid the risk of multiple transfusions; and to reduce capillary hemorrhage, reduce the oozing following multiple transfusions, and prevent or arrest delayed hemorrhage.

3. Lacking substantial evidence of effectiveness when labeled for "relief of pregnancy bleeding"; advanced cases of prostatic carcinoma resistant to other estrogens; hemorrhagic emergencies due to spontaneous bleeding; to reduce bleeding due to capillary hemorrhage during and after oral surgery and after dental extraction; pulmonary bleeding; and use in hyphema during and after ocular surgery.

B. *Conditions for approval and marketing*—1. *Form of drug.* Except for estradiol dipropionate and estrone, these preparations are in a form suitable for oral administration. Estradiol dipropionate, estrone, and conjugated estrogens may be in a form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (35 F.R. 2656). The "Indications" sections are as follows (The possibly effective indications may also be included for 6 months.):

INDICATIONS

These drugs are indicated for replacement therapy of estrogen deficiency associated with: Menopausal syndrome, female hypogonadism (hypodgenitalism), amenorrhea, female castration, or primary ovarian failure. They are also indicated for the prevention of postpartum breast engorgement; abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology; and in osteoporosis—depending upon the etiology and then only when used in conjunction with other important therapeutic measures such as diet, calcium, physiotherapy, and good general health-promoting measures.

The following indications may be included provided the recommended dosage schedules of these preparations are consistent with those recommended by the Academy:

Senile vaginitis; kraurosis vulvae with or without pruritus; inoperable progressing prostatic cancer (for palliation only when castration is not feasible or when castration failures or delayed escape following a response to castration have not occurred); breast cancer (for palliation only in women with progressing inoperable or roentgen resistant disease who are more than 5 years postmenopausal; and in men, in those inoperable cases in which bilateral orchidectomy cannot be performed because of in independent surgical contraindication.)

The dosages for any of these indications which are to be used in labeling must be supported by clinical data if the indication was not included in the labeling which the Academy reviewed for that particular preparation.

c. The labeling for all short-acting estrogens must contain the following warning:

WARNING

A statistically significant association has been reported between maternal ingestion of diethylstilbestrol during pregnancy and the occurrence of vaginal carcinoma in the offspring. This occurred with the use of diethylstilbestrol for the treatment of threatened abortion or high risk pregnancies. Whether or not such an association is applicable to all estrogens is not known at this time. In view of this finding, however, the use of any estrogen in pregnancy is not recommended.

II. LONG-ACTING ESTROGENS

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are:

1. Effective or probably effective for the indications described in the labeling conditions which follow. The probably effective indication is "in selected cases of osteoporosis."

2. Possibly effective for disturbances of the menstrual cycle (hypomenorrhea, oligomenorrhea, irregular cycles); suppression of lactation; to minimize blood loss at surgery, lessen the incidence of postoperative hemorrhage, and avoid the risk of multiple transfusions; and to reduce capillary hemorrhage, reduce the oozing following multiple transfusions, and prevent or arrest delayed hemorrhage.

3. Lacking substantial evidence of effectiveness when labeled for "relief of pregnancy bleeding"; advanced cases of prostatic carcinoma resistant to other estrogens; hemorrhagic emergencies due to spontaneous bleeding; to reduce bleeding due to capillary hemorrhage during and after oral surgery and after dental extraction; pulmonary bleeding; and use in hyphema during and after ocular surgery.

In addition, because of the possibility of untoward effects and consequent need for prompt cessation of the drug effect, the long-acting estrogens are classified as lacking substantial evidence of effectiveness for their labeled indications relating to their use in neoplastic diseases other than prostatic carcinoma.

B. *Conditions for approval of marketing*—1. *Form of drug.* Chlorotrianisene preparations are in capsule form suitable for oral administration. Estradiol valerate and polyestradiol phosphate are in sterile oleaginous solution or sterile dry powder with sterile diluent form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (35 F.R. 2656). The "Indications" sections are as follows (The possibly effective indications may also be included for 6 months):

INDICATIONS

These drugs are indicated for replacement therapy of estrogen deficiency associated with: Menopausal syndrome, female hypogonadism (hypogenitalism) amenorrhea, female castration, or primary ovarian failure. They are also indicated for the prevention of postpartum breast engorgement; abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology; and in osteoporosis—depending upon the etiology and then only when used in conjunction with other important therapeutic measures such as diet, calcium, physiotherapy, and good general health-promoting measures.

The following indications may be included provided the recommended dosage schedules of these preparations are consistent with those recommended by the Academy: Senile vaginitis and kraurosis vulvae with or without pruritus; inoperable progressing prostatic cancer (for palliation only when castration is not feasible or when castration failures or delayed escape following a response to castration have not occurred).

The dosages for any of these indications which are to be used in labeling must be supported by clinical data if the indication was not included in the labeling which the Academy reviewed for that particular preparation.

c. The labeling for all long acting estrogens must contain the following warning:

WARNING

A statistically significant association has been reported between maternal ingestion of diethylstilbestrol during pregnancy and the occurrence of vaginal carcinoma in the offspring. This occurred with the use of diethylstilbestrol for the treatment of threatened abortion or high risk pregnancies. Whether or not such an association is applicable to all estrogens is not known at this time. In view of this finding, however, the use of any estrogen in pregnancy is not recommended.

III *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" sections above) and possibly effective (not included in the "Indications" sections above), continued use as described in paragraphs (c), (d), (e), and (f) of that notice.

IV. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraphs I. A. and II. A. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from the labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing together with a well organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be

identified with the reference number DESI 1543, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Request for hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the hearing clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: June 29, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11394 Filed 7-24-72;8:46 am]

[DESI 8943; Docket No. FDC-D-306; NDA 8-943, etc.]

CERTAIN CARBONIC ANHYDRASE INHIBITORS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Cardrase Tablets containing ethoxzolamide; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002 (NDA 11-047).

2. Diamox Tablets containing acetazolamide; Laderle Laboratories Division, American Cyanamid Co., Post Office Box 500, Pearl River, N.Y. 10965 (NDA 8-943).

3. Diamox Parenteral (powder for reconstitution) containing sodium acetazolamide; Lederle Laboratories Division, American Cyanamid Co. (NDA 9-388).

4. Oratrol Tablets containing dichlorphenamide; Alcon Laboratories, Inc., 6201 South Freeway, Box 1959, Fort Worth, Tex. 76101 (NDA 12-449).

5. Neptazane Tablets containing methazolamide; Lederle Laboratories Division, American Cyanamid Co. (NDA 11-721).

6. Daranide Tablets containing dichlorphenamide; Merck Sharp and Dohme, Division of Merck and Co., West Point, Pa. 19486 (NDA 11-366).

7. Diamox Sequels (sustained release capsules) containing acetazolamide; Lederle Laboratories Division, American Cyanamid Co. (NDA 12-945).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

I. ETHOXZOLAMIDE; ACETAZOLAMIDE (IN CONVENTIONAL TABLET OR PARENTERAL FORMS); DICHLORPHENAMIDE; METHAZOLAMIDE

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. These drugs are effective for the indications described in the "Indications" sections below, except that;

2. Ethoxzolamide is probably effective for its recommended use as an adjunct in the centrencephalic epilepsies (petit mal, unlocalized seizures).

3. Ethoxzolamide lacks substantial evidence of effectiveness for the management of premenstrual edema and toxemia of pregnancy.

4. Acetazolamide lacks substantial evidence of effectiveness for the treatment of obesity, edema of pregnancy, premenstrual edema, Meniere's disease, and in adjunctive therapy for postpartum breast engorgement.

5. Dichlorphenamide lacks substantial evidence of effectiveness for the treatment of chronic pulmonary insufficiency with respiratory acidosis.

6. Except for the indications referred to above, ethoxzolamide and dichlorphenamide are regarded as possibly effective for other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described in this announcement.

1. *Form of drug.* Preparations of these drugs are in conventional tablet form suitable for oral administration except that acetazolamide as the sodium salt is in sterile powder form suitable for reconstitution and parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drugs. The "Indications" sections are as follows:

INDICATIONS

Ethoxzolamide:

For adjunctive treatment of: edema due to congestive heart failure; chronic simple (open angle) glaucoma, secondary glaucoma, and preoperatively in acute angle closure glaucoma where delay of surgery is desired in order to lower intraocular pressure; centrencephalic epilepsies (petit mal, unlocalized seizures).

Acetazolamide (in conventional tablet and parenteral forms):

For adjunctive treatment of: edema due to congestive heart failure; drug-induced edema; centrencephalic epilepsies (petit mal, unlocalized seizures); chronic simple (open angle) glaucoma, secondary gaumoca, and preoperatively in acute angle closure glaucoma where delay of surgery is desired in order to lower intraocular pressure.

Dichlorphenamide and Methazolamide:

For adjunctive treatment of: chronic simple (open angle) glaucoma, secondary glaucoma, and preoperatively in acute angle closure glaucoma where delay of surgery is desired in order to lower intraocular pressure.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1) (i), (ii), and (iii) of the notice of July 14, 1970. Clinical trials which have established effectiveness of the drug may also serve to establish the bioavailability of the drug if such trials were conducted on the currently marketed formulation.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not included in the "Indications" section above), continued use as described in (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withapplications and all amendments and drawing approval of all new drug supplements thereto providing for theindications for which substantial evidence of effectiveness is lacking as described in paragraph A above. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use not the subject of

an approved new drug application offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well organized and full factual analysis of the clinical and other investigational data the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled and partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

II. ACETAZOLAMIDE IN SUSTAINED RELEASE DOSAGE FORM

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available information, and concludes that acetazolamide in sustained release form for oral use is probably effective for treatment of chronic simple (open angle) glaucoma, secondary glaucoma, and preoperatively in acute angle closure glaucoma where delay of surgery is desired in order to lower intraocular pressure.

B. *Marketing status.* 1. Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as probably effective may be continued for 12 months as described in paragraphs (c), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

2. Within 60 days from publication hereof in the FEDERAL REGISTER, the holder of any approved new-drug application for such drug is requested to submit a supplement to his application to provide for revised labeling as needed, which, taking into account the comments of the Academy, furnishes adequate information for safe and effective use of the drug, and recommends use of the drug for the probably effective indications as follows:

INDICATIONS

For adjunctive treatment of: chronic simple (open angle) glaucoma, secondary glaucoma, and preoperatively in acute angle closure glaucoma where delay of surgery is desired in order to lower intraocular pressure.

The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period.

3. After 60 days following publication hereof in the FEDERAL REGISTER, any such drug on the market without an approved new-drug application and shipped within the jurisdiction of the Federal Food, Drug, and Cosmetic Act should be labeled in accord with this notice.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 8943, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Original new-drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: June 28, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-11393 Filed 7-24-72;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Notice of Oral Argument

Take notice that pursuant to § 2.730 (d), of the rules and regulations of the Atomic Energy Commission, and as further discussed with the parties, oral argument on a motion made under the provisions of § 50.57(c) by the Maine Yankee Power Co. for an operating license authorizing low power testing and further operations short of full power, will be held at 10 a.m. Tuesday, July 25, 1972, in Conference Room No. 10103, fob #7, 726 Jackson Place NW., Washington, DC (entrance on 17th Street).

Issued: July 20, 1972, Washington, D.C.

By order of the Atomic Safety and Licensing Board.

JOHN B. FARMAKIDES,
Chairman.

[FR Doc.72-11513 Filed 7-24-72;8:56 am]

[Docket No. 50-58]

OKLAHOMA STATE UNIVERSITY

Order Authorizing Dismantling of Facility

By application dated May 26, 1971, the Oklahoma State University requested authorization to dismantle and dispose of the AGN-201 (Serial No. 102) nuclear research reactor located on its campus in Stillwater, Okla., and formerly operated under Facility License No. R-22. The reactor has been shut down and it has been deactivated by removing all of the fuel from the core.

Under the terms of an appropriate construction permit (which is the subject of a separate action in Docket No. 50-406), Tuskegee Institute will receive the reactor component parts and related fuel of the disassembled reactor and transport them to its campus in Tuskegee, Ala., where the reactor will be reconstructed for educational training purposes.

We have reviewed the application in accordance with the provisions of the Commission's regulations in § 50.82 of 10 CFR Part 50 and we have found that the dismantling of the reactor and the disposal of its components, including the fuel, in accordance with (1) the procedures set forth in the university's application dated May 26, 1971, (2) applicable sections of 10 CFR Parts 20 and 50 of the Commission's regulations, and (3) the "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material" dated April 22, 1970, will not be inimical to the common defense and security or to the health and safety of the public. Accordingly, the Oklahoma State University is hereby authorized to dismantle the deactivated nuclear research reactor covered by Facility License No. R-22, as amended, in accordance with the above-stated procedures, regulations, and guidelines.

After the completion of the dismantling and decontamination of the facility site in Stillwater, Okla., transfer of the reactor component parts and fuel to Tuskegee Institute, the submission of a report by Oklahoma State University de-

scribing the condition of the remaining structure, and the filing of a report by Commission inspectors verifying that the dismantling, decontamination, and disposal have been satisfactorily completed, consideration will be given to whether a further order should be issued terminating Facility License No. R–22.

Date of issuance: July 13, 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72–11444 Filed 7–24–72;8:51 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Docket No. 67–13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301(a) on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Deputy Administrator, Farmers Home Administration, Office of the Administrator to Associate Administrator, Farmers Home Administration, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11468 Filed 7–24–72;8:52 am]

DEPARTMENT OF THE ARMY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Army to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary of the Army for Personnel Policy and Programs, Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11463 Filed 7–24–72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Policy Coordination, Office of the Assistant Secretary for Planning and Evaluation.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11460 Filed 7–24–72;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Director, Project Financing Division, Renewal and Housing Management.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11464 Filed 7–24–72;8:52 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Director, Assistant Secretary for Public Land Management, Bureau of Outdoor Recreation.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11465 Filed 7–24–72;8:52 am]

DEPARTMENT OF THE INTERIOR

Notice of Title Change in Noncareer Executive Assignment

By notice of August 10, 1971, F.R. Doc. 71–11519, the Civil Service Commission authorized the Department of the Interior to fill by noncareer executive assignment the position of Deputy Assistant Secretary, Lands and Recreation, Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Assistant Secretary, Public Land Management (Public Lands).

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11469 Filed 7–24–72;8:52 am]

NATIONAL LABOR RELATIONS BOARD

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the National Labor Relations Board to fill by noncareer executive assignment in the excepted service the position of Associate General Counsel, Division of Enforcement Litigation.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11462 Filed 7–24–72;8:52 am]

NATIONAL LABOR RELATIONS BOARD

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the National Labor Relations Board to fill by noncareer executive assignment in the excepted service the position of Deputy General Counsel, Office of the General Counsel.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11461 Filed 7–24–72;8:51 am]

NATIONAL LABOR RELATIONS BOARD

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the National Labor Relations Board to fill by noncareer executive assignment in the excepted service the position of Associate General Counsel, Division of Litigation.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–11467 Filed 7–24–72;8:52 am]

NATIONAL LABOR RELATIONS BOARD

Notice of Revocation of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Serv-

ice Commission revokes the authority of the National Labor Relations Board to fill by noncareer executive assignment in the excepted service the position of Associate General Counsel, Division of Operations, Office of the General Counsel.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-11466 Filed 7-24-72;8:52 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Title Change in Noncareer Executive Assignment

By notice of November 18, 1970, F.R. Doc. 70-15517, the Civil Service Commission authorized the Office of Economic Opportunity to fill by noncareer executive assignment the position of Director, Economic Development Division, Office of Program Development. This is notice that the title of this position is now being changed to Chief, Economic Development Division, Office of Program Development.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-11470 Filed 7-24-72;8:52 am]

ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLE POLLUTION CONTROL

California State Standards; Waiver of Federal Preemption

On August 31, 1971, the Administrator of the Environmental Protection Agency, announced by publication in the FEDERAL REGISTER (36 F.R. 17458) a waiver of application of section 209(a) of the Clean Air Act, as amended, to the State of California's assembly line test procedure applicable to motor vehicles produced for sale in California. California's requested waiver for assembly line testing of 100 percent of production vehicles beginning with model year 1973 was conditioned to the extent that no more than 50 percent of the 1973 model year vehicles produced prior to January 30, 1973, would be subject to assembly line testing. This limitation was placed on the waiver because it was determined that vehicle manufacturers required the additional time to construct necessary test facilities and install necessary equipment to test 100 percent of production.

The Administrator stated that the waiver shall not prohibit California from adopting modifications of the presently proposed assembly line test and associated numerical standards where such modifications are designed to improve correlation with certification standards and test procedures or where California determines that the objectives of the assembly line test requirement can be satisfied at reduced cost to the consumer.

On December 15, 1971, California adopted modifications to the 1973 assembly line test procedure which include a short idle test to be used in addition to the original 1 hot cycle 7-mode test. The idle test will be applicable to 25 percent of model year 1973 production prior to January 30, 1973, and to 75 percent of production vehicles thereafter. The 7-mode test will continue to be applicable to 25 percent of production vehicles. The assembly line test modification also includes a functional test applicable to all 1973, and subsequent model year vehicles. This test will be designed by the manufacturers and is intended to insure that emission system components function properly.

In a letter to the Administrator, December 30, 1971, California requested waiver of application of section 209(a) of the Act to:

1. Resolution 71-104A adopting sections 1947, 2110(c), and 2209 of title 13, California Administrative Code relating to assembly line testing; and

2. California Assembly line Test Procedures for 1973 and Subsequent Model Light-Duty Vehicles adopted December 15, 1971.

In a subsequent letter to the Administrator dated January 26, 1972, California directed attention to the wording of the August 31, 1971, waiver which stated that such waiver shall not prohibit California from adopting modification of the presently proposed assembly line test and associated numerical standards where California determines that the objectives of the assembly line test requirement can be satisfied at reduced cost to the consumer. California concluded that, since the per vehicle cost of the proposed idle and functional test is significantly less than the per vehicle cost of the present 7-mode test, the modifications to the assembly line test were in compliance with the requirements of the previous waiver, and a separate waiver is not required for the proposed modifications.

Because the idle test proposed in the California assembly line test procedure does not require the use of a chassis dynamometer and requires less time to perform than the 7-mode test, I agree with California that the cost per test to the consumer of the idle test will be less than that of the 7-mode test.

I, therefore, find that waiver of application of section 209(a) to the amendments to section 1947, 2110(c), and 2209 of title 13, California Administrative Code adopted by resolution on December 19, 1971, and to the California Assembly Line Test Procedure for 1973 and subsequent model light-duty vehicles adopted December 15, 1971, exists within the meaning and intent of the waiver granted on Augst 27, 1971, and published in the FEDERAL REGISTER (36 F.R. 17458). I reemphasize my contention in the waiver that existing data raises serious questions concerning the validity of California's assembly line test as an indicator of true vehicle emission performance, and the merit of adopting such a test by the Environmental Protection Agency.

Copies of the above assembly line test procedures are available for inspection at the Office of the Director, Mobile Source Enforcement Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Copies of the assembly line test procedures may be obtained from the Califonia Air Resources Board, 4321 South San Pedro Street, Los Angeles, CA 90013 or 1025 P Street, Sacramento, CA 95814.

Dated: July 19, 1972.

JOHN QUARLES,
Acting Administrator.

[FR Doc.72-11382 Filed 7-24-72;8:45 am]

MOTOR VEHICLE POLLUTION CONTROL

California State Standards; Waiver of Federal Preemption

In a letter to the Administrator, December 30, 1971, California requested concurrence in the view that the following provisions of California law relating to control of motor vehicle emissions do not require waiver of Federal preemption under section 209 of the Clean Air Act:

1. AB 937, relating to warranty on new vehicle emission control systems, and
2. Section 2850 of title 13, California Administrative Code, relating to assembly line surveillance.

In a letter to the Administrator, March 17, 1972, California similarly requested concurrence that the following provision does not require waiver:

3. Article 1, subchapter 3, chapter 3 of title 13, California Administrative Code, relating to enforcement of new vehicle standards.

I agree that separate waiver of application of section 209(a) of the Clean Air Act to these provisions is not required. While these provisions are included among those emission control measures preempted by section 209(a), I believe that previous waivers granted to California for its emission control program extend to these provisions. Since these provisions do not establish new standards or new enforcement test procedures, they need not independently meet the requirements of section 209(b) of the Act.

Dated: July 19, 1972.

JOHN QUARLES,
Acting Administrator.

[FR Doc.72-11383 Filed 7-24-72;8:45 am]

STAUFFER CHEMICAL CO.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 180.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (40 CFR 180.8). Stauffer Chemical Co., 1200 47th Street, Richmond, CA 94804, has withdrawn its petition (PP 1F1129), notice of which was published in the FEDERAL REGISTER of March 13, 1971 (36 F.R. 4901) proposing the establishment of a tolerance for negligible residues of the insecticide S-(*p*-chlorophenylthiomethyl) *O,O*-dimethyl phosphorodithioate in or on the raw agricultural commodity cottonseed at 0.1 part per million.

Dated: July 19, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-11443 Filed 7-24-72;8:50 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 130]

EMPIRE FINANCIAL CORP.

Notice of Receipt of Application for Approval of Acquisition of Control of Family Savings and Loan Association

JULY 20, 1972.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Empire Financial Corp., Los Angeles, Calif., a unitary savings and loan holding company, for approval of acquisition of control of the Family Savings and Loan Association, Los Angeles, Calif., an insured institution under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisition to be effected by the purchase of all the assets of Family Savings and Loan Association by Empire Financial Corp. for cash and the assumption of the liabilities of Family Savings and Loan Association by Empire Financial Corp. Following the proposed acquisition, Empire Financial Corp. proposes to merge Family Savings and Loan Association into Empire Savings and Loan Association, Van Nuys, Calif., an insured subsidiary of Empire Financial Corp. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary, Federal Home Loan Bank Board.

[FR Doc.72-11480 Filed 7-24-72;8:54 am]

FEDERAL MARITIME COMMISSION

FAR EAST CONFERENCE ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Gerald J. Flynn, Chairman, Far East Conference, 11 Broadway, New York, NY 10004.

Agreement No. 9991 is a joint agreement amongst the Far East Conference, the Japan-Atlantic and Gulf Freight Conference, the Pacific Westbound Conference, and the Trans-Pacific Freight Conference of Japan enabling the four conferences engaged in reciprocal trades between the United States and Japan to jointly simplify their tariffs, to adopt uniform tariff terminology, and to eliminate references to commodities which rarely move in the trades.

Dated: July 19, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-11501 Filed 7-24-72;8:53 am]

PACIFIC COAST-EUROPEAN CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015, or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of agreement filed by:

Leonard G. James, Esq., Graham & James, 310 Sansome Street, San Francisco, CA 94104.

Agreement No. 5200-DR-3, among the member lines of the above-named conference, modifies Article 7(a) of the Shippers' Rate Agreement to define currency devaluation as including de facto devaluation, as well as formal devaluation, for purposes of suspending the contract or increasing rates on 15 days' notice subsequent to such devaluation.

Dated: July 19, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-11502 Filed 7-24-72;8:53 am]

UNITED STATES AND GULF-SANTO DOMINGO CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015, or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any perdesiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence.

An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of petition for continued approval of a contract rate system filed by:

John G. Lamb, Jr., Esq., Casey, Lane & Mittendorf, 815 Connecticut Avenue, NW., Washington, DC 20006.

Notice is hereby given that the member lines of the United States Atlantic and Gulf-Santo Domingo Conference (Agreement No. 6080, as amended) have filed with the Commission pursuant to section 14b of the Shipping Act, 1916, a petition for continued approval of the existing contract rate system, and form of dual rate contract, which applies to the northbound movement of coffee, cocoa, and tobacco in the conference trade between United States Atlantic and Gulf ports and ports in the Dominican Republic.

The present northbound contract rate system of the Conference, which was approved by the Commission in its order of October 1, 1969, for a period of three (3) years, will terminate on October 1, 1972.

Dated: July 19, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-11503 Filed 7-24-72;8:53 am]

FEDERAL POWER COMMISSION

[Docket No. RP72-47]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes and Amendments in Curtailment Procedure

JULY 20, 1972.

Take notice that on June 21, 1972, Consolidated Gas Supply Corp. (Consolidated), pursuant to sections 4 and 5 of the Natural Gas Act, filed revised tariff sheets and substitute revised tariff sheets [1] to its FPC Gas Tariff, First Revised Volume No. 1 [2] to become effective 60 days from the date of filing. The changes contained in those tariff sheets embody Consolidated's curtailment plan, which is set forth in a new section 11 of the general terms and conditions. As Consolidated's filing of October 5, 1971, has not been effectuated (see footnote No. 1), its FPC Gas Tariff, First Revised Volume No. 1 remains in effect. Thus, the new section 11 is intended to set forth the rules by which the general provisions of the existing section 10 would be implemented during a period of curtailment of deliveries.

In support of the present filing, Consolidated states that the reasons for amending the curtailment rules filed on October 5, 1971, are to propose a method of curtailing, uniformly, certain of its buyers and to provide changes in rates and billing adjustments in order to mitigate the economic effect of any curtailments. Consolidated further states that, except for the above-mentioned reasons, the plan continues to be based on end-use concepts and that other statements in its transmittal letter to the October 5, 1971, filing continue to apply.

The above describes, in part, Consolidated's instant filing. The complete proposal is on file with the Commission and is available for public inspection.

Consolidated states that copies of the filing have been mailed to jurisdictional customers and State commissions shown on its service list. Consolidated further states that the filing is available for public inspection during regular business hours at its main office in Clarksburg, W. Va.

Any person desiring to be heard or to make any protest with reference to this filing should on or before August 7, 1972, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as parties in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Any order issued in this proceeding will be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order 11616 including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11447 Filed 7-24-72;8:51 am]

[1] On Oct. 5, 1971, Consolidated filed, pursuant to Order No. 431, certain revised tariff sheets. The instant filing is intended to amend the curtailment plan filed on Oct. 5, 1971, and suspended by Commission order until Dec. 5, 1971, or until made effective by motion of Consolidated. Consolidated has not moved to place the suspended plan into effect.

[2] The sheets filed are labeled: First Revised Sheet No. 10, First Revised Sheet No. 11, First Revised Sheet No. 12, Substitute First Revised Sheet No. 13, First Revised Sheet No. 14, First Revised Sheet No. 16, First Revised Sheet No. 17, First Revised Sheet No. 18, First Revised Sheet No. 19, First Revised Sheet No. 20, First Revised Sheet No. 21, Substitute First Revised Sheet No. 51, Original Sheet No. 51-A, Original Sheet No. 51-B, Original Sheet No. 51-C, Original Sheet No. 51-D, Substitute First Revised Sheet No. 52, Original Sheet No. 53-A, Original Sheet No. 53-B, and Original Sheet No. 53-C.

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Tender of Revised Tariff Sheets

JULY 19, 1972.

Take notice that on June 30, 1972, Consolidated Gas Supply Corp. (Consolidated) tendered for filing revised tariff sheets [1] to its FPC Gas Tariff, First Revised Volume No. 1. The purpose of the instant filing is to revise the purchased gas cost adjustment (PGA) clause, filed on January 31, 1972, in Docket No. RP72-104, in compliance with Orders 452 and 452-A issued in Docket No. R-406 and with ordering paragraph (B) of the Commission order issued on March 14, 1972, in Docket No. RP72-104. The tariff sheets tendered herein are in substitution for the tariff sheets containing the PGA clause filed in Docket No. RP72-104 and bear an effective date of August 17, 1972, the effective date of the tariff sheets filed in that docket.

Consolidated requests the Commission to grant waiver of § 154.38(d)(4) to the extent required to permit inclusion of the following provisions in Consolidated's PGA clause:

(1) Reduction of the minimum notice period from 45 days to 38 days;

(2) Inclusion of transportation charges paid to others with purchased gas costs;

(3) The rolling-in of purchased gas cost changes from suppliers other than pipelines with changes from pipeline suppliers.

Consolidated also requests permission to begin accruing amounts in Account 186 on August 1, 1972.

Copies of Consolidated's transmittal letter and enclosures have been sent to each of Consolidated's jurisdictional customers, other interested persons, and interested State commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, by August 1, 1972, 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 1, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this appli-

[1] Substitute Thirteenth Revised Sheet No. 8, Substitute First Revised Sheet No. 52, Substitute First Revised Sheet No. 52-A, Substitue First Revised Sheet No. 52-B, Substitute First Revised Sheet No. 52-C and Substitute First Revised Sheet No. 52-D.

cation are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11448 Filed 7-24-72;8:54 am]

[Project No. 5; Amdt. 14; Instrument 20]

MONTANA POWER CO.

Order Vacating Stay of Order Readjusting Annual Charges for the Use of Indian Tribal Lands

JULY 20, 1972.

On May 19, 1959, the Confederated Salish and Kootenai Tribes of the Flathead Reservation (Tribes) filed a petition to readjust the annual charges paid to the Tribes by the Montana Power Co., Licensee for Kerr Project No. 5, for the use of Indian tribal lands. By order and accompanying Opinion No. 529 of October 4, 1967, this Commission readjusted these annual charges from $238,375 to $950,000 effective as of May 20, 1959, bearing simple interest at the rate of 6 percent per annum from such date. By order of March 21, 1968, we denied the Licensee's applications for rehearing. Thereupon, the Licensee filed petitions to review and modify the Commission's order of October 4, 1967, with the U.S. Court of Appeals for the District of Columbia, and on April 1, 1968, filed with this Commission a motion to stay the orders of October 4, 1967, and March 21, 1968, and the initial decision of the presiding Examiner issued August 4, 1966, insofar as adopted by the Commission, until completion of judicial review of our orders. On April 15, 1968, we stayed the effect of our October 4, 1967, and March 21, 1968, orders pending judicial review. On June 26, 1972, the U.S. Supreme Court denied certiorari, and the Court of Appeals issued its mandate affirming the opinion and orders of the Commission with the exception of reducing the rate of interest from 6 percent to 4 percent per annum. The Tribes, shortly thereafter, on June 28, 1972, filed a motion with the Commission to vacate our order of April 15, 1968, granting stay of issuance of our orders of October 4, 1967, and March 21, 1968. The Licensee has filed no pleading in opposition to the Tribes' motion.

Since the Court of Appeals has now issued its mandate affirming our orders of October 4, 1967, and March 21, 1968 (except as to the rate of interest), our order of April 15, 1968, staying the effect of the aforementioned orders will be vacated.

On the basis of our October 4, 1967, order as modified by the Court of Appeals' mandate, the Licensee presently owes the Tribes $11,249,913.81 for the period May 20, 1959, through December 31, 1971, which includes interest of $2,269,791.27 based on 4 percent simple interest through June 30, 1972. These charges are based on the readjustment being effective 20 years from May 20, 1939, the date the project was available for and began commercial operations. The date December 31, 1971, represents the last day of calendar year 1971 the most recent year for which annual charges are due and payable. Interest on these charges for this period is payable through June 30, 1972.

The Commission finds:

(A) On April 15, 1968, the Federal Power Commission stayed its orders of October 4, 1967, and March 21, 1968, readjusting annual charges payable to the Tribes pending judicial review of those orders.

(B) On June 26, 1972, the Court of Appeals for the District of Columbia issued its mandate affirming the Federal Power Commission's orders of October 4, 1967, and March 21, 1968, as modified.

(C) On June 28, 1972, the Tribes filed a motion with the Commission to vacate the April 15, 1968, order.

(D) The Commission's order of April 15, 1968, should be vacated.

(E) On the basis of the Commission's order of October 4, 1967, as modified by the Court of Appeals' mandate of June 26, 1972, the Licensee owes the Tribes $11,249,913.81 in annual charges for the period May 20, 1959, through December 31, 1971, which includes interest of $2,269,791.27 based on 4 percent simple interest through June 30, 1972, to be paid within 30 days from June 30, 1972.

The Commission orders:

(1) The Commission's order of April 15, 1968, staying the Commission's orders of October 4, 1967, and March 21, 1968, is hereby vacated.

(2) On the basis of the October 4, 1967, order as modified by the Court of Appeals' mandate, the Licensee shall pay the Tribes $11,249,913.81 for the period May 20, 1959, through December 31, 1971, which includes interest of $2,269,791.27 based on 4 percent simple interest through June 30, 1972, to be paid within 30 days from June 30, 1972.

(3) Article 30 paragraph (A)(4) of the license for Project No. 5 is hereby amended to read as follows:

(4) In addition to the charges set forth above, the Licensee shall pay to the United States for the use in connection with this license of the Flathead Indian lands an annual charge of $775,000 per annum, effective May 20, 1959.

(4) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this order. In acknowledgement of the acceptance of this order it shall be signed for the Licensee and returned to this Commission within 60 days from the date of issuance of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

In testimony of its acknowledgement of acceptance of all of the provisions, terms and conditions of the license order issued ----------, as amended by this order, The Montana Power Co., this ---- day of ---------, 1972, has caused its corporate name to be signed hereto by ----------, Chairman of the Board of Directors, and its corporate seal to be affixed hereto and attested by ----------, its ---------- Secretary, pursuant to a resolution of its Board of Directors duly adopted on the ---- day of ---------, 1972, a certified copy of the record of which is attached hereto.

THE MONTANA POWER COMPANY
By ----------
Chairman of the Board
of Directors

Attest:

Secretary

[FR Doc.72-11451 Filed 7-24-72;8:55 am]

NATIONAL GAS SURVEY TECHNICAL ADVISORY COMMITTEE-SUPPLY

Order Designating Member

JULY 20, 1972.

The Federal Power Commission by order issued April 6, 1971 established the Technical Advisory Committees of the National Gas Survey.

1. Membership. Captain Emory C. Smith has resigned his membership in the Technical Advisory Committee-Supply. A new member to the Technical Advisory Committee-Supply, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Commander Joseph P. Trunz, Jr., Director, Naval Petroleum and Oil Shale Reserves, Department of the Navy.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11456 Filed 7-24-72;8:55 am]

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-REGULATION, AND LEGISLATION AND TRANSMISSION-TECHNICAL ADVISORY TASK FORCE-REGULATION AND LEGISLATION

Order Designating Additional Member

JULY 20, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. Membership. An additional member to both the Supply-Technical Advisory Task Force-Regulation and Legislation and Transmission-Technical Advisory Task Force-Regulation and Legislation, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Edward L. Strohbehn, Staff Attorney, Natural Resources Defense Council, Inc. (DC)

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-11457 Filed 7-24-72;8:55 am]

[Project No. 470]

PRINGLE FALLS ELECTRIC POWER AND WATER CO.

Order Vacating Land Withdrawal

JULY 18, 1972.

Application has been filed by the U.S. Department of Agriculture, Forest Service, for vacation of the land withdrawal for Project No. 470 in its entirety, thereby requiring Commission consideration under section 24 of the Federal Power Act.

The following described lands located within the Deschutes National Forest are withdrawn pursuant to the filing on January 14, 1924, of an application for preliminary permit for Project No. 470 by the Pringle Falls Electric Power & Water Co.:

WILLAMETTE MERIDIAN, OREGON

T. 22 S., R. 8 E.,
Sec. 11, SE¼NE¼, NE¼SE¼;
Sec. 12, S½NW¼, N½SW¼, N½SE¼, W½SW¼SE¼, NE¼SE¼SE¼.
T. 21 S., R. 9 E.,
Sec. 23, N½SE¼, N½SW¼, SW¼SW¼;
Sec. 26, NW¼NW¼;
Sec. 27, NE¼, E½SW¼, NW¼SE¼;
Sec. 33, E½SE¼, SW¼SE¼;
Sec. 34, W½NE¼, NW¼, NW¼SW¼.
T. 22 S., R. 9 E.,
Sec. 4, lots 1, 2, 3, SW¼NE¼, SE¼NW¼, N½SW¼;
Sec. 7, lots 2, 3, 5, SE¼NW¼, NE¼SW¼, W½E½SW¼SW¼.

Aggregating approximately 1,737.72 acres.

The subject lands in secs. 7, 11, and 12 have been inundated by the Bureau of Reclamation's Wickiup Reservoir, an irrigation development on the Deschutes River. The remaining lands lie along the 10-mile reach of the Deschutes River between Wickiup Dam and Pringle Falls.

Project No. 470 contemplated construction of a dam across the Deschutes River, about a quarter of a mile upstream from Pringle Falls, to raise the normal level of the water about 10 feet, a conduit about 2,300 feet long, and a powerhouse with an installed capacity of about 4,000 kw. An 18-month preliminary permit for the project expired on May 13, 1926, and an application for license was not filed.

Operation of a hydroelectric project at Pringle Falls would depend upon releases from Wickiup Reservoir which stores water for irrigation. Sufficient water for power development would not be available during the winter and spring storage months as only about 25 c.f.s. are released during this period.

No active plan is known that proposes use of the subject lands for hydroelectric development purposes and such use is considered unlikely. The Commission's current inventory of developed and undeveloped hydroelectric sites does not include any projects in this reach of the Deschutes River.

The Geological Survey has recommended that the withdrawal for Project No. 470 be vacated in its entirety.

The subject lands which have been inundated by Wickiup Reservoir are protected by a reclamation withdrawal.

The Commission finds:

The withdrawal for Project No. 470 no longer serves a useful purpose and should be vacated in its entirety.

The Commission orders:

The withdrawal of the subject lands pursuant to the application for Project No. 470 is hereby vacated in its entirety.

By the Commission.

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

[FR Doc.72-11449 Filed 7-24-72;8:55 am]

[Project No. 1921]

ROY W. TEMPLE

Order Vacating Land Withdrawal

JULY 18, 1972.

Application has been filed by the U.S. Department of Agriculture, Forest Service, for vacation of the land withdrawal for Project No. 1921 in its entirety, thereby requiring Commission consideration under section 24 of the Federal Power Act.

The following described lands are withdrawn pursuant to the filing by Roy W. Temple of an application for license for Project No. 1921.

WILLAMETTE MERIDIAN, OREGON

All portions of the following section lying within 10 feet of the centerline of the ditch, pipeline, powerhouse, and transmission line locations as shown on a map designated "Exhibit 'K'" and entitled "Power Project of Roy W. Temple, Cascade Summit, Oregon," and filed in the office of the Federal Power Commission on August 21, 1944:

T. 23 S., R. 6 E.,
Sec. 17, unsurveyed.
Approximately 0.91 acre.

The date of filing of the completed application for license was August 26, 1944. A notice of land withdrawal for the project was sent to the General Land Office (now Bureau of Land Management) by letter dated January 12, 1945.

The lands lie within the Deschutes National Forest and are located along Alohe Creek, a small tributary of Odell Lake in the upper Deschutes River Basin. Project No. 1921 was a small diversion type development with a capacity of 1 kw.

A 10-year license for the project was issued November 20, 1945, to Roy W. Temple. The project was subsequently transferred to Mrs. Florence Adkinson who operated the project under authority of a Forest Service special use permit after the license expired. On December 2, 1970, the Forest Service terminated the special use permit at the request of Mrs. Adkinson.

The lands are no longer used or needed for hydroelectric development purposes as Midstate Electric Cooperative, Inc., now serves the area.

The Commission finds:

The withdrawal for Project No. 1921 no longer serves a useful purpose and should be vacated in its entirety.

The Commission orders:

The withdrawal of the subject lands pursuant to the application for Project No. 1921 is hereby vacated in its entirety.

By the Commission.

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

[FR Doc.72-11450 Filed 7-24-72;8:55 am]

[Docket No. CP72-127]

TENNESSEE GAS PIPELINE CO.

Order Providing for Hearing and Establishing Procedures

JULY 18, 1972.

On November 9, 1971, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (TGP), filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate 72 miles of 36-inch pipe and 19,100 additional compressor horsepower.

In support of its application, TGP states that the average daily requirements of its General Service and Small General Service Customers have increased and the facilities proposed herein will provide an increased, authorized system design day capacity of 84,000 Mcf, which, Applicant alleges, will enable it to meet its system requirements for 1973. No peak day sales are proposed.

We believe that a full evidentiary record is desirable in this proceeding to explore the public convenience and necessity issues involved in this proposal. The inquiry should include inter alia, a full market review, including end-use, through the submission of evidence by TGP, its customers, and where appropriate its customers' customers. The inquiry should establish, inter alia, the ultimate use of the natural gas proposed to be sold by TGP in order to permit us to evaluate the public interest issues of whether to grant the certificate as requested during this period of a national gas shortage. Such inquiry should be expedited to the extent possible.

The Commission finds:

Good cause exists for the Commission to enter upon a hearing commencing with a prehearing conference concerning TGP's above-mentioned proposal as set forth in its application filed herein on November 9, 1971, and for establishing the procedures hereinafter ordered for that hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a hearing shall be held commencing with a prehearing conference on August 1, 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 public convenience and necessity issues under the criteria of section 7(c) of the Natural Gas Act to construct and operate the facilities requested in TGP's appli-

cation filed herein on November 9, 1971.

(B) On or before July 24, 1972, TGP and the other parties, who are required to present evidence on the issues set forth above, shall serve their testimony and exhibits on all parties to this proceeding including Staff and the Office of Hearing Examiners. The evidence required to be served by this paragraph shall deal with at least the market data and end use issues set forth above.

(C) At the prehearing conference, ordered in paragraph (A) above, the evidence submitted in compliance with this order shall be placed in the record and the hearing shall then be adjourned from time to time to permit the parties to attempt to reach an accord on the facts and issues involved herein in order to expedite the hearing procedures and our determination of TGP's request for a certificate of public convenience and necessity.

(D) A Presiding Examiner, to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.

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

[FR Doc.72-11452 Filed 7-24-72;8:55 am]

[Docket No. CP73-9]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JULY 20, 1972.

Take notice that on July 12, 1972, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP73-9 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of an additional point of delivery from Sun Oil Co. (Sun) to Applicant under the existing firm transportation agreement between the two companies dated February 3, 1970 (Rate Schedule X-11 to applicant's presently effective FPC Gas Tariff, Original Volume No. 2), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by letter agreement dated June 9, 1972, Sun has agreed to take gas under the firm transportation agreement from the Brazos Area, Block A-76 Field, offshore Texas, to be delivered by Sun through Applicant's existing meter and regulator station in that field. Applicant indicates that by utilizing the existing purchase point as an additional point of delivery under the transportation agreement, Sun will be able to utilize whatever portion is necessary of its retained reserves to support the firm transportation volumes. Applicant estimates that daily deliveries of transportation gas at the proposed point will be approximately 5,000 Mcf per day.

Applicant indicates that the addition of this delivery point requires the further amendment of the firm transportation agreement by the addition of language authorizing Sun to process the gas to be transported from said delivery point. No additional construction by Applicant is required, nor is there any increase in the transportation volumes.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 14, 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.72-11453 Filed 7-24-72;8:55 am]

[Docket No. G-2730, etc.]

HILDA B. WEINERT AND JANE W. BLUMBERG, ET AL.

Notice Fixing Time for Filing Briefs Opposing Exceptions

JULY 19, 1972.

Notice is hereby given that briefs opposing exceptions to the Presiding Examiner's initial decision issued June 2, 1972, in the above-designated matter, are due on or before August 1, 1972.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-11455 Filed 7-24-72;8:55 am]

[Docket No. E-7752]

WESTERN MASSACHUSETTS ELECTRIC CO.

Notice of Application

JULY 18, 1972.

Take notice that on July 3, 1972, Western Massachusetts Electric Co. filed an application pursuant to section 203 of the Federal Power Act seeking authority to sell to the city of Westfield, Gas and Electric Department, certain electric transmission facilities now under construction, all of which are located in Westfield, Mass., at Western Massachusetts' cost, estimated to be one million sixty thousand dollars ($1,060,000).

Western Massachusetts proposes to sell to Westfield the greater portion of the Elm Street 115 kv substation, at its cost including two tranformers, 28/87, 3/46, 7 MVA, 10 oil circuit breakers, 26 disconnects and associated facilities. Western Massachusetts represents that the substation was recently completed to provide an additional point of service for Western Massachusetts; wholesale sales of electricity to Westfield; and that Westfield desired to purchase the substation in order to reduce certain transformation payments to Western Massachusetts.

Applicant is incorporated under the laws of the State of Massachusets, with its principal business office at West Springfield, Mass., and is principally engaged in the electric utility business, furnishing retail electric service to 59 cities and towns in the counties of Hampden, Hampshire, Franklin, and Berkshire, Mass. Applicant also furnishes all of the electric energy requirements of the municipal electric departments of the city of Westfield and the towns of Chester and Russell.

Westfield was organized in 1899 under the laws of the Commonwealth of Massachusetts as a municipal lighting plant, and furnishes retail gas and electric service within the city of Westfield, Mass.

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, 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 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.72-11454 Filed 7-24-72;8:55 am]

FEDERAL RESERVE SYSTEM

BOATMEN'S BANCSHARES, INC.

Acquisition of Bank

Boatmen's Bancshares, Inc., St. Louis, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Boatmen's National Bank of North St. Louis County, St. Louis County, Mo., 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 St. Louis. 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 21, 1972.

Board of Governors of the Federal Reserve System, July 17, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11395 Filed 7-24-72;8:46 am]

EXCHANGE BANCORPORATION, INC.

Acquisition of Bank

Exchange Bancorporation, Inc., Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire at least 99 percent of the voting shares of The Exchange National Bank of Pinellas Park, Pinellas 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 Reserve Bank to be received not later than August 14, 1972.

Board of Governors of the Federal Reserve System, July 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-11446 Filed 7-24-72;8:51 am]

GENERAL SERVICES ADMINISTRATION

ORGANIZATIONAL CHANGES

1. *Purpose.* This notice announces changes in the central office and regional organization of GSA.

2. *Background.* The management consulting firm of Fry Consultants, Inc., has submitted a report covering its study of the organization and management of GSA's Government-wide and internal automatic data processing and related activities. This order implements certain recommendations contained in the study report.

3. *Changes in organization.* Effective July 15:

a. The Transportation and Communications Service and the Office of Automated Data Management Services, FSS, and their regional counterparts, are abolished.

b. The Automated Data Processing and Telecommunications Service is established. This new Service shall consist of an: (1) Office of Agency Assistance, Planning, and Policy; (2) Office of Automated Data Management Services; (3) Office of Telecommunications; and (4) Office of the Executive Director. The Government-wide automatic data processing responsibilities of the former Office of Automated Data Management Services, FSS, and the telecommunications responsibilities of the former Transportation and Communications Service are assigned to this new Service.

c. The GSA internal automatic data processing responsibilities of the former Office of Automated Data Management Services, FSS, are assigned to the Office of Administration.

d. The motor equipment, transportation, and public utilities responsibilities of the former Transportation and Communications Service are assigned to the Federal Supply Service.

e. A regional Automated Data Processing and Telecommunications Service is established in each regional office. Responsibilities of the (1) former regional Automated Data Management Services Division, FSS, except the GSA internal ADP systems and programing responsibilities, and (2) applicable telecommunications responsibilities of the former regional Communications Division, TCS, are assigned to the new regional Automated Data Processing and Telecommunications Service.

f. The GSA internal ADP systems and programing responsibilities of the former regional Automated Data Management Services Division, FSS, are assigned to the Office of Administration, Central Office.

g. The applicable motor equipment, transportation, and public utilities responsibilities of the former regional Transportation and Communications Service are assigned to the regional Federal Supply Service.

Dated: July 17, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-11360 Filed 7-24-72;8:56 am]

OFFICE OF ECONOMIC OPPORTUNITY

[B2C 5370]

EVALUATION OF HOUSING PROGRAMS IN PENNSYLVANIA

Notice of Contract Award

Pursuant to section 606 of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2946, this agency announces the award through the Small Business Administration of contract B2C 5370 to Boone, Young and Associates, 551 Fifth Avenue, New York, NY 10017 for a research project entitled "Evaluation of Housing Program in Pennsylvania." The purpose of this project is to collect data on nine OEO and non-OEO funded housing projects in order to enhance the decisionmaking process concerning regional housing strategies and the mobilization of resources to resolve identified housing problems at the local and State levels. The estimated cost of this contract is $36,000 and the intended completion date is November 30, 1972.

WESLEY L. HJORNEVIK,
Deputy Director.

JULY 18, 1972.

[FR Doc.72-11431 Filed 7-24-72;8:50 am]

OFFICE OF EMERGENCY PREPAREDNESS

JAMES G. TOOHY

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 F.R. 37, January 5, 1971), to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), I hereby appoint James G. Toohy as Federal Coordinating Officer to perform the duties specified by section 201 of that Act for Maryland disaster No. 341 with date of declaration, June 23, 1972, effective July 17, 1972.

This notice changes my designation of June 24, 1972 (37 F.R. 12756, June 28, 1972) with respect to the same disaster listed, naming Francis X. Carney as Federal Coordinating Officer.

Dated: July 19, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-11473 Filed 7-24-72;8:56 am]

NEW YORK

Amendment to Notice of Major Disaster

Notice of major disaster for the State of New York, dated June 24, 1972, and published June 28, 1972 (37 F.R. 12756), amended June 27, 1972, and published July 1, 1972 (37 F.R. 13136), amended July 3, 1972, and published July 8, 1972 (37 F.R. 13502), is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 23, 1972:

The County of:
Orange.

Dated: June 19, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-11474 Filed 7-24-72;8:56 am]

VIRGINIA

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Virginia, dated June 29, 1972, and published July 4, 1972 (37 F.R. 13218), and amended July 2, 1972 and published July 14, 1972 (37 F.R. 13825), is hereby further amended to include the following counties and cities among those counties and cities determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 23, 1972:

The Counties of:

Amelia.	Essex.
Bath.	Smyth.

The Cities of:

Buena Vista.	Galax.

Dated: July 19, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-11475 Filed 7-24-72;8:56 am]

PRICE COMMISSION

ECONOMIC STABILIZATION PROGRAM

Certification of Regulatory Agencies Regarding Public Utilities

Section 300.16a(d) of the regulations of the Price Commission provides for the issuance by the Price Commission of certificates of compliance to State and Federal regulatory agencies whose rules for implementing the Economic Stabilization Program, with respect to public utilities, have been approved by the Price Commission.

It is the Commission's intention to publish in the FEDERAL REGISTER, on a biweekly basis, a list of the regulatory agencies that have been so certified.

As of July 21, 1972, certificates of compliance have been issued to the following agencies.

(a) Federal Agencies:

(1) Interstate Commerce Commission.

(b) State Agencies:

(1) The Public Utilities Commission of Colorado.

(2) Public Service Commission of the District of Columbia.

(3) Michigan Public Service Commission.

(4) State of New York Public Service Commission.

(5) State of North Carolina Utilities Commission.

(6) Virginia State Corporation Commission.

(7) Washington Utilities and Transportation Commission.

Issued in Washington, D.C. on July 21, 1972.

W. DAVID SLAWSON,
General Counsel,
Price Commission.

[FR Doc.72-11576 Filed 7-21-72;4:38 pm]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

JULY 18, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Accurate Calculator Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 19, 1972, through July 28, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-11482 Filed 7-24-72;8:53 am]

[File Nos. 2-19888, etc.]

ASHLAND OIL, INC.

Notice of Application and Opportunity for Hearing

JULY 13, 1972.

Notice is hereby given that Ashland Oil, Inc. (the company) has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the Act) for a finding that the trusteeship of First National City Bank (FNCB) under indentures dated as of April 1, 1962 (the 1962 Indenture), August 7, 1967 (the 1967 Indenture), and February 15, 1970 (the 1970 Indenture), which are qualified under the Act; and an indenture dated as of June 15, 1972 (the New Indenture), which is not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify FNCB from acting as trustee under any such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflict interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the qualified indenture and such other indenture is not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of said indentures.

The company alleges that:

(1) As of June 21, 1972, it had outstanding the following issues of debentures under wholly unsecured indentures executed by the company with FNCB as trustee:

(a) $25 million principal amount of its 8 percent Guaranteed Debentures due 1987 issued by its wholly owned subsidiary, Ashland Oil Finance N. V. (Finance) and unconditionally guaranteed by the company as to payment of principal, premium, if any, interest and any additional interest payable as a result of the withholding taxes, assessments or governmental charges referred to in the indenture. The debentures were issued under an indenture dated as of June 15, 1972 (referred to as the "New Indenture") which was not qualified under the Act. The debentures are exempt from registration under the Securities Act of 1933, and the New Indenture is exempt from qualification under the Trust Indenture Act of 1939 since the debentures were sold outside the United States, its territories and possessions.

(b) $75 million principal amount of its 8.80 percent Sinking Fund Debentures, due 2000 issued under an indenture dated as of February 15, 1970, which was qualified under the Act.

(c) $57,271,000 principal amount of its 6.15 percent Sinking Fund Debentures, due 1992 issued under an indenture dated as of August 1, 1967, which was qualified under the Act.

(d) $20,412,000 principal amount of its 4½ percent Sinking Fund Debentures, due 1987 issued under an indenture dated as of April 1, 1962, which was qualified under the Act.

(2) It is not in default under the 1970 Indenture, the 1967 Indenture or the 1962 Indenture (collectively referred to as "Existing Indentures"). The Existing Indentures and the New Indenture are wholly unsecured. All debentures issued under Existing Indentures and the New Indenture are unsubordinated obligations of the company and the rights of the holders of the debentures issued under the Existing Indentures and the rights of the holders of the debentures issued under the New Indenture with respect to the Guarantee rank on a parity with each other.

(3) Such differences as exist between the Existing Indentures and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify FNCB from acting as trustee under any of said Indentures.

The company has waived notice of hearing, hearing, and any and all rights to specify procedures under the rules of practice of the Commission with respect to this application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, DC 20549.

Notice is further given that any interested person may not later than August 9, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of, fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing theron. Any such request should be addressed to the Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest unless a hearing is ordered by the Commission.

For the Commission by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-11483 Filed 7-24-72;8:53 am]

[File No. 500-1]

FIRST WORLD CORP.

Order Suspending Trading

JULY 18, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stock, $0.15 par value, of First World Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 19, 1972, through July 28, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-11484 Filed 7-24-72;8:53 am]

[File No. 500-1]

FOUR SEASONS NURSING CENTERS OF AMERICA, INC., AND FOUR SEASONS EQUITY CORP.

Order Suspending Trading

JULY 17, 1972.

The common stock, $0.25 par value of Four Seasons Nursing Centers of American, Inc., and the voting stock, $1 par value, Four Seasons Equity Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of these companies being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 2:45 p.m., e.d.t., on July 17, 1972, through July 26, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-11485 Filed 7-24-72;8:53 am]

[File No. 500-1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

JULY 6, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of LDS Dental Supplies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of the investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 10, 1972, through July 19, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-11486 Filed 7-24-72;8:53 am]

[File No. 500-1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

JULY 19, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of LDS Dental Supplies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of the investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 20, 1972, through July 29, 1972.

By the Commission.

RONALD F. HUNT,
Secretary.

[FR Doc.72-11487 Filed 7-24-72;8:53 am]

SOUTH CENTRAL INDUSTRIES, INC., AND COMMUNICATIONS CYBERNETICS CORP.

Order Suspending Trading

JULY 19, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.15 par value, and all other securities of South Central Industries, Inc., and the common stock, $0.50 par value, and all other securities of Communications Cybernetics Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period 3:30 p.m., e.d.t. on July 19, 1972, through July 28, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-11488 Filed 7-24-72;8:54 am]

[812-3156]

WASHINGTON MUTUAL INVESTORS FUND, INC.

Notice of Filing of Application for Exemption

JULY 18, 1972.

Notice is hereby given that Washington Mutual Investors Fund, Inc. (Applicant), Southern Building, 1425 H Street NW., Washington, DC 20005, an open-end diversified management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 6(c) of the Act for an order exempting George E. Allen, a director of Applicant, from the definition of interested person in section 2(a)(19) of the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations therein, which are summarized below.

George E. Allen, a director of Applicant since 1952, is also a director and a member of the executive committee of Avco Corp. (Avco) which has as one of its wholly owned subsidiaries The Paul Revere Corp. (Paul Revere). Paul Revere owns the Paul Revere Life Insurance Co. (Paul Revere Life) which, in turn, owns The Paul Revere Equity Sales Company (Sales Company), a broker-dealer registered under the Securities Exchange Act of 1934. Applicant states that Mr. Allen has no affiliation with Sales Company other than as a director of Avco.

Mr. Allen is also Director Emeritus of Occidental Life Insurance Co. (Occidental Life) which is a subsidiary of Transamerica Corp. (Transamerica). Transamerica has a subsidiary, Transamerica Fund Sales, Inc. (Fund Sales) which is a broker-dealer registered under the Securities Exchange Act of 1934. Applicant represents that, as Director Emeritus, Mr. Allen has no vote on the board of directors of Occidental Life.

Applicant asserts that Mr. Allen is subject to no conflicts of interest as a result of his relationships with Avco and Occidental Life since his activities as a director of Avco and as Director Emeritus of Occidental Life are isolated from and independent of any business activities of the Applicant and of the investment adviser and principal underwriter of the Applicant. Applicant states that in his capacity as a director of Avco and Director Emeritus of Occidental Life, Mr. Allen has no direct supervisory authority over, or direct responsibility for, or anything else to do with the management or operation of Paul Revere Life or any subsidiary thereof or of Occidental Life or of any subsidiary company in the Occidental Life structure, including Fund Sales. Moreover, the application states that the Sales Company and Fund Sales do not sell shares of Applicant or engage in portfolio securities transactions with or on behalf of the Applicant. In addition, Applicant asserts that such broker-dealers would not be considered by Applicant as potential firms through which to execute securities transactions or sell Applicant's shares.

Applicant asserts that Mr. Allen is a man of national stature and recognized integrity, experience, and competence in the fields of industry and finance. Applicant believes it is in the public interest as well as in the best interests of it and its shareholders that he continue to serve as an independent director of the Applicant and that his status as a "noninterested person" be affirmed.

Section 2(a)(19) of the Act, in pertinent part, defines an interested person, when used with respect to an investment company, as any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such a broker or dealer.

Section 2(a)(3) of the Act defines an affiliated person of another person to include any director, officer, or employee of such other person.

Section 6(c) of the Act provides that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provisions or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that George E. Allen should not be deemed an "interested person" of Applicant because his affiliation with Avco and Occidental Life does not and will not inhibit his independence or create an "interest" such as section 2(a)(19) was designed to reach, and that the requested exemption is, therefore, consistent with the protection of investors and the provisions of the Act.

Notice is further given that any interested person may, not later than August 11, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will received notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-11489 Filed 7-24-72;8:54 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30 (Rev. 13) Amdt. 15]

REGIONAL DIRECTORS ET AL.

Delegation of Authority to Conduct Program Activities In Field Offices

Delegation of Authority No. 30 (Revision 13) (36 F.R. 5881), as amended (36 F.R. 7625, 36 F.R. 11129, 36 F.R. 13713, 36 F.R. 14712, 36 F.R. 15769, 36 F.R. 22876, 36 F.R. 23421, 36 F.R. 25194, 37 F.R. 2615, 37 F.R. 3581, 37 F.R. 4939, 37 FR. 5984, 37 F.R. 9266, and 37 F.R. 10415), is hereby further amended to increase approval authority of Economic Opportunity Loans from $25,000 (SBA share) to a maximum of $50,000 (SBA share).

Part 1, section A, paragraph 2 is revised to read as follows:

2. Economic Opportunity (EO) Loans. To approve or decline economic opportunity loans not exceeding $50,000 (SBA share).

All officials as shown in subparagraphs a. through m. of paragraph 1, of this section A.

Effective date: June 27, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-11420 Filed 7-24-72;8:49 am]

[Delegation of Authority No. 30; Revision 14, Amdt. 1]

REGIONAL DIRECTORS

Delegation of Authority to Regional Directors To Conduct Program Activities in Field Offices

Delegation of Authority No. 30 (Revision 14) (37 F.R. 12651) is hereby amended to increase the maximum amount of Economic Opportunity Loan approval authority from $25,000 (SBA share) to $50,000 (SBA share).

Part 1, section A, paragraph 2 is revised to read as follows:

2. *Economic Opportunity (EO) Loans.* To approve or decline economic opportunity loans not exceeding $50,000 (SBA share).

Effective date: July 1, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-11421 Filed 7-24-72;8:49 am]

[Delegation of Authority No. 4.4-1, Amdt. 1, (Region IX) for Disaster No. 802]

LOS ANGELES EARTHQUAKE DISASTER OFFICE

Delegation of Authority to Conduct Program Activities in the Field Offices

I. Delegation of Authority No. 4.4-1 (37 F.R. 10415) is hereby amended to increase the authority of the Disaster Branch Manager and delegate certain authorities to the Supervisory Loan Officer assigned to the Los Angeles Earthquake Disaster Office as follows:

1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up the total SBA funds of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds

to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety, occupational safety and health, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan:

(1) Disaster Branch Manager, Los Angeles Earthquake Disaster Office.

(2) Supervisory Loan Officer, if assigned, Los Angeles Earthquake Disaster Office.

2. To decline disaster guaranteed loans in any amount and to approve such loans up to an SBA guarantee of the following amounts:

(1) Disaster Branch Manager, Los Angeles Earthquake Disaster Office	$350,000
(2) Supervisory Loan Officer, if assigned, Los Angeles Earthquake Disaster Office	350,000

II. Authority delegated herein may not be redelegated.

III. Authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: April 24, 1972.

GILBERT MONTANO,
Regional Director, Region IX, San Francisco, Calif.

[FR Doc.72-11422 Filed 7-24-72;8:47 am]

[Declaration of Disaster Loan Area 922; Class B]

DISTRICT OF COLUMBIA

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 District of Columbia;

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 office below indicated from persons or firms whose property situated in the District of Columbia, suffered damage or destruction resulting from torrential rainfall and extensive flooding as a result of Hurricane Agnes, beginning about June 21, 1972.

OFFICE

Small Business Administration District Office, 1310 L Street NW., Suite 724, Washington, DC 20416.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to October 31, 1972.

Dated: July 11, 1972.

CLAUDE ALEXANDER,
Associate Administrator for Operations and Investment.

[FR Doc.72-11423 Filed 7-24-72;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

GENERAL ELECTRIC CO.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of June 23, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-142) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition submitted by the International Association of Machinists and Aerospace Workers District Lodge No. 157 for determination of eligibility to apply for adjustment assistance on behalf of the workers of the General Electric's Audio Electronics Products Department, Utica, N.Y. In this report, the Commission found that articles like or directly competitive with the radio receivers produced by the Utica plants of General Electric Co. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of those plants.

Upon receipt of the Tariff Commission's affirmative finding the Department, through the Director of the Office of Foreign Economic Policy, ILAB, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342 and 37 F.R. 2472, 13137; 29 CFR Part 90). In the recommendation, she noted that imports of products like or directly competitive with radio receivers produced by the Utica plants of the General Electric Co. increased substantially. The company itself began producing radio receivers abroad and importing such receivers for the U.S. market. As a result, the company cut back production in its Utica plants. Employment levels at Utica began to drop in late 1967 and continued as the company took further steps to improve its competitiveness by expanding foreign production to supply the U.S. and Canadian markets. All production at the Utica facilities was discontinued June 1972. After due consideration I make the following certification:

All hourly and salaried workers of General Electric Co., Bleeker Street and Broad Street plants in Utica, N.Y., who became or will become unemployed or underemployed after October 16, 1967, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this July 19, 1972.

JOEL SEGALL,
Deputy Under Secretary for International Affairs.

[FR Doc.72-11499 Filed 7-24-72;8:53 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 621 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Amos Quality Market, foodstore; 116 East Eighth Avenue, Homestead, PA; 4-13-73.

Andys Model Market, foodstore; 1221 North Seventh, Harlingen, TX; 3-20-73.

Anthony Euser Greenhouses, agriculture; Route 1, Broomfield, Colo.; 4-8-73.

Anthony's Super Market, foodstore; Oak and Fourth Street, Frackville, Pa., 4-12-73.

Arne's Fairway, foodstore; 203 West Main, Ada, MN 4-1-73.

Arnold's Food Market, Inc., foodstore; 14 North Baltimore Avenue, Mount Holly Springs, PA; 4-12-73.

Ashtabula Hotel Building Co., hotel; 4726 Main Avenue, Ashtabula, OH; 4-21-72 to 3-21-73.

Aurelia Clover Farm, foodstore; Aurelia, Iowa; 3-31-73.

Autry Greer & Sons, Inc., foodstore; 911 South Wilson Avenue, Prichard, AL; 4-3-73.

Ball & Christy Furniture Co., furniture store; 111 East D Street, Iron Mountain, MI; 3–26–73.

Barrett Community Home, Inc., nursing home; Barrett, Minn.; 4–29–73.

Bel Air Convalescent Center, Inc., nursing home; 9350 West Fond Du Lac Avenue, Milwaukee, WI; 3–22–73.

Ben Franklin Store, variety-department stores, 3–31–73, except as otherwise indicated: No. 1135, Cedar Lake, Ind. (4–7–73); No. 0375, Marysville, Mich.; Peachtree Plaza Shopping Center, Greer, S.C.

Bennett's Foodliner, foodstore; Ruidoso, N. Mex.; 3–26–73.

Bergemann's Market, foodstore; 804 North Spring Street, Beaver Dam, WI; 4–14–73.

Beynon IGA Foodliner, foodstore; Divernon, Ill.; 3–20–73.

Big K Department Store, variety-department stores, 4–18–73: Fort Campbell Boulevard, Hopkinsville, Ky.; South Plaza Highway 41 South, Madisonville, Ky.; Charlotte Square Shopping Center, Nashville, Tenn.

Big Star, foodstores: Monticello, Ky., 4–12–73; No. 37, Memphis, Tenn., 3–22–73.

Bill Crook's Food Town, foodstore; No. 2, Old Hickory, Tenn.; 3–31–73.

Black & White, Inc., variety-department store; 236 South Main, Yazoo City, MS; 3–22–73.

Bladenboro Cash Store, Inc., variety-department store; Main Street, Bladenboro, N.C.; 3–27–73.

Bondurant Drug, Inc., drugstore; 109 Main Street, Corbin, KY; 4–14–73.

Bone Superette, foodstore; 609 First Street, Bald Knob, AR; 4–10–73.

Boulware H. Jameson, Inc., auto dealer; 1200 Highway 54 South, Fulton, MO; 3–30–73.

Brooks Griffin, agriculture; Route 3, Elaine, Ark.; 4–11–73.

Buehler Market, foodstores: 1553 Gordon Street Southwest, Atlanta, GA; 4–26–73; 409 East Main Street, Streator, IL 3–25–73.

By-Lo Super Market, foodstore; 639 Gillespie Street, Fayetteville, NC; 3–31–73.

C & L Markets, Inc., foodstore; 400 East Division, Roakford, MI; 4–15–73.

Carney's, variety-department store; 128 South Main Street, Marysville, OH 4–6–73.

Carson Pirie Scott & Co., variety-department store; 111–113 North Tremont, Kewanee, IL; 4–27–73.

Carter's IGA Foodliner, foodstore; 138 South Washington, Charlotte, MI; 4–1–73.

Casey Drug & Jewelry Co., drugstore; Chamberlain, S. Dak.; 4–16–73.

Central Market, Inc., foodstore; 83 East Main Street, McConnelsville, OH; 3–22–73.

Central Park Super Market, foodstore; 5728 Avenue O, Birmingham, AL; 3–22–73.

Chamberlain Hospital & Home Association, hospital; Chamberlain, S. Dak.; 3–30–73.

Channel Pharmacy, drugstore; No. 2, Channelview, Tex.; 4–30–73.

Christine G. Phillips, agriculture; Route 2, Lynchburg, S.C.; 3–29–73.

Clarys 5 & 10, variety-department store; 178 Crogan Street, Lawrenceville, GA; 5–6–73.

Clay's Seed, Inc., agriculture; Carlisle, Ky.; 4–14–73.

Colby Super Market, Inc., foodstore; Colby, Kans.; 3–23–73.

Colonial Food Store, restaurant; No. 2, Wichita, Kans.; 3–26–73.

Columbia Shopping Center, foodstore; 1200 West Columbia, Evansville, IN; 3–21–73.

Cooper's, apparel store; 79 Winrock Center, Albuquerque, NM; 3–23–73.

Dan's Free Car Wash, carwash; 3883 East Livingston Avenue, Columbus, OH; 5–14–73.

Dee's Food Market, foodstore; 522 West Milam, Wharton, TX; 4–11–73.

Derryberry Drug Co., Inc., drugstore; 115 West Seventh Street, Columbia, TN; 3–24–73.

Dillon Companies, Inc., foodstores: No. 48, Hutchinson, Kans., 4–17–73; No. 53, Salina, Kans., 3–31–73.

Duckwall Stores, Co., variety-department stores, 3–30–73: Nos. 62, 64, 66, 74, 98, and 100, Colorado Springs, Colo.; No. 73, Commerce City, Colo.; Nos. 75 and 84, Denver, Colo.; No. 15, Fort Morgan, Colo.; Nos. 65 and 76, Pueblo, Colo.; No. 1, Abilene, Kans.; No. 32, Colby, Kans.; No. 5, Concordia, Kans.; No. 12, Garden City, Kans.; No. 7, Great Bend, Kans.; No. 59, Hutchinson, Kans.; No. 88, Junction City, Kans.; No. 86, Leavenworth, Kans.; No. 14, Liberal, Kans.; No. 77, Salina, Kans.; No. 87, Topeka, Kans.; No. 52, Ulysses, Kans.; Nos. 33 and 93, Wichita, Kans.; No. 79, Winfield, Kans.; Nos. 57 and 89, Albuquerque, N. Mex.

Durand IGA, foodstore; 219 North Saginaw, Durand, MI; 4–1–73.

Eagle Stores Co., Inc., variety-department store; 2813–2817 Greenmount Avenue, Baltimore, MD; 3–31–73.

Easter Super Valu, foodstore; 209 E Street, Oskaloosa, IA; 3–31–73.

Eaton Rapids IGA, foodstore; 121 West Hamlin, Eaton Rapids, MI; 4–1–73.

Edge of the Ledge IGA Foodliner, foodstore; 512 South Clinton, Grand Ledge, MI; 4–1–73.

Edward Phillips, agriculture; Route 2, Lynchburg, S.C.; 3–29–73.

Edward's, variety-department store; Canton, Ill.; 4–20–73.

El Rancho Markets, foodstores, 3–31–73: 1760 East Santa Fe Avenue, Flagstaff, AZ; 5121 West Glendale Boulevard, Glendale, AZ; 1422 East Main, Mesa, AZ; 1018 West Main, Mesa, AZ; 5017 North Central Avenue, Phoenix, AZ; 6018 South Central Avenue, Phoenix, AZ; 5718 North 15th Avenue, Phoenix, AZ; 3921 East Indian School Road, Phoenix, AZ; 4430 East McDowell Road, Phoenix, AZ; 3115 North Third Avenue, Phoenix, AZ; 7830 North 12th Street, Phoenix, AZ; 6025 North 27th Avenue, Phoenix, AZ; 3442 West Van Buren, Phoenix, AZ; 326 West Indian School Road, Scottsdale, AZ; 929 Mill Avenue, Tempe, AZ; 3607 East Broadway, Tuscon, AZ; 1930 East Grant Road, Tucson, AZ; 3360 East Speedway, Tucson, AZ; 6321 East 22d Street, Tucson, AZ; 367 West 16th Street, Yuma, AZ.

Erspamer Super Market, foodstore; No. 521, Hurley, Wis.; 4–15–73.

Farm & City Market, foodstore; 700 South Main, El Dorado, KS; 4–14–73.

Farmers Discount Center, Inc., foodstore; 615 West Cherry, Chanute, KS; 3–31–73.

Fleishman Co., variety-department store; 115 South Main Street, Anderson, SC; 3–31–73.

Food & Drug Mart, Inc., foodstore; 1423 East Stadium Boulevard, Ann Arbor, MI; 3–23–73.

Foodland Supermarket, foodstores, 4–16–73: 407 West Huron, Missouri Valley, IA; Fifth and Lincoln, Woodbine, Iowa.

Forum 5 & 10, Inc., variety-department store; 1621 South Jefferson Avenue, St. Louis, MO; 4–12–73.

Frank Lockage's Store for Men, apparel store; 2761 Peck Street, Muskegon Heights, MI; 5–20–73.

Frankenmuth Bavarian Inn, restaurant; 713 South Main Street, Frankenmuth, MI; 3–28–73.

J. H. Galley Florist, Inc., agriculture; 2244 Union Road, West Seneca, NY; 3–31–73.

George F. Kramer Co., Inc., variety-department store; 323 First Avenue West, Grand Rapids, MN; 4–2–73.

Gerardo's Grocery, foodstore; Toluca, Ill.; 5–6–73.

Gerbes Super Markets, Inc., foodstores, 3–21–73: No. 309, Camdenton, Mo.; No. 311, Columbia, Mo.; No. 304, Eldon, Mo.; No. 308, Holden, Mo.; No. 312, Jefferson City, Mo.; No. 310, Pleasant Hill, Mo.; No. 301, Tipton, Mo.; No. 302, Versailles, Mo.; No. 303, Windsor, Mo.

Geri's Hamburgers, restaurant; 5518 North Second Street, Loves Park, IL; 3–27–72 to 2–9–73.

Goldblatt Bros., Inc., variety-department stores, 4–2–73, except as otherwise indicated: 443 East 34th Street, Chicago, IL; 2430 North Harlem Avenue, Elmwood Park, IL (3–27–73); McArthur and Outer Park Drive, Springfield, Ill.

Goudchaux's, Inc., variety-department store; 1500 Main Street, Baton Rouge, LA; 4–2–73.

W. T. Grant Co., variety-department stores, 3–31–73, except as otherwise indicated: No. 1156, Downers Grove, Ill.; No. 226, Rockford, Ill. (5–16–73); No. 1042, Rockford, Ill. (4–21–73); No. 400, Rumford, Maine (4–30–73); No. 175, Kalamazoo, Mich. (4–10–73); No. 1218, Medina, Ohio; No. 126, Newark, Ohio (5–14–73); No. 1022, Bloomsburg, Pa.

Grebe's Bakeries, Inc., foodstore; 601 West Mitchell Street, Milwaukee, WI; 4–12–73.

Guentert's Bakeries, foodstore; 526–528 Braddock Avenue, Braddock, PA; 4–10–73.

H.E.B. Food Store, foodstore; No. 98, Brenham, Tex.; 4–8–73.

H & K Drive-In Pharmacy, Inc., drugstore; 520–530 Harding Way West, Galion, OH; 4–25–73.

Haffner's 5¢ to $1.00 Stores, variety-department stores; No. 52, Kendallville, Ind., 3–30–73; No. 23, Sandusky, Mich., 4–23–73.

Handy-Andy, Inc., foodstore; No. 30, San Antonio, Tex.; 4–7–73.

Hannibal Sandy's, Inc., restaurant; Huck Finn Shopping Center, Hannibal, Mo.; 3–24–73.

Harry From's, Inc., variety-department store; 103 West Main Street, Union, SC; 3–28–73.

Heine Drugs, drugstore; 301 North Union, St. Louis, MO; 4–8–73.

Hekkema Brothers, agriculture; 1131 Cadillac Drive, Muskegon, MI; 4–16–73.

Hellmans, Inc., variety-department store; 2202 Central Avenue, Kearney, NE; 3–31–73.

Hen House Super Markets, foodstores, 4–12–73: Nos. 1 and 2, Kansas City, Mo.

Hermanson's Food Market, foodstore; 1415 Mount Rushmore Road, Rapid City, SD; 4–16–73.

Hertz Walgreen Agency Drugs, drugstore; 2221 Grand Avenue, Wausau, WI; 4–18–73.

Holiday Manor, Inc., nursing home; 1615 Parker Avenue, Osawatomie, KS; 4–6–73.

Host International, Inc., restaurants, 4–20–73, except as otherwise indicated: Nos. 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, and 718, Indiana Toll Road, Ind.; No. 760, Beckley, W. Va. (4–2–73).

Howard Counts Grocery, Inc., foodstore; 231 Bradford Drive, Charlotte, NC; 4–8–73.

Howard Nelson Kraker, agriculture; 11921 68th Avenue, Allendale, MI; 4–22–73.

T. D. Hubbard Co., foodstore; 111 Victoria Street, Kennedy, TX; 3–21–73.

Jacob Wagenmaker & Son, agriculture; 1243 East Norton Road, Muskegon, MI; 5–9–73.

Jenny Lee Bakery, foodstore; Ingram and Foster Avenues, Pittsburgh, Pa.; 3–27–73.

Jerry's Markets, foodstores, 5–1–73: 2101 West Franklin, Evansville, IN; 2809 Lincoln Avenue, Evansville, IN; 1115 Main Street, Evansville, IN.

Joe's Food Market, foodstore; Main Street, Springfield, Ky.; 3–26–73.

John B. Peters, agriculture; Route 1, Gardners, Pa.; 4–18–73.

John Vantimmeren, agriculture; Route 1, Allendale, Mich.; 4–21–73.

Kalida IGA, foodstore; West and Fourth Street, Kalida, Ohio; 3–21–73.

Kaufman's, apparel store; 1040 Main Street, Wheeling, WV; 3–31–73.

Kay Baum, Inc., apparel stores; 22283–22287 Michigan Avenue, Dearborn, MI, 4–16–73; 18 Woodlawn Mall, Grand Rapids, MI, 4–10–72 to 12–8–72.

Kilroy's, apparel store; 119 West Broadway, Farmington, NM; 4–14–73.

King Drug, Inc., drugstore; 101 Lewisville Center, Lewisville, TX; 3–24–73.

King's Food Host, restaurants, 4–7–72 to 3–31–73: 1503 West 23d Street, Lawrence, KS; 1011 West Loop Place, Manhattan, KS; 7420 Metcalf, Overland Park, KS; 525 West 21st Street, Topeka, KS; 2522 Johnson Drive, Westwood, KS; 309 Business Loop 70 East, Columbia, MO; 710 Missouri Boulevard, Jefferson City, MO; 1418 East 63d Street, Kansas City, MO; 9816 East Highway 50, Raytown, MO.

Kramer's Department Store, Inc., variety-department store; 121 West Main Street, Wallace, NC; 3–22–73.

Kreher's Poultry Farm, agriculture; 11066 Main Street, Clarence, NY; 4–23–73.

S. S. Kresge Co., variety-department stores: No. 4292, Hialeah, Fla., 4–28–73; No. 4296, Hollywood, Fla., 4–6–72 to 3–24–73; No. 4356, Largo, Fla., 4–30–73; No. 4122, Pensacola, Fla., 3–21–73; No. 4343, West Palm Beach, Fla., 3–22–73; No. 4198, Columbus, Ga., 4–4–72 to 4–2–73; No. 4293, Decatur, Ill., 4–30–73; No. 4154, North Aurora, Ill., 3–27–73; No. 4058, Springfield, Ill., 5–1–73; No. 4294; Marion, Ind., 4–23–73; No. 4522, Newton, Iowa, 3–29–73; No. 4352, Livonia, Mich., 4–15–73; No. 4126, Omaha, Nebr., 4–3–73; No. 4258, Akron, Ohio, 4–14–73; No. 4229, Austintown, Ohio, 3–31–73; No. 4257, Middleburg Heights, Ohio, 4–19–73; No. 48, Stow, Ohio, 3–21–73; No. 284, Altoona, Pa., 4–20–73; No. 4333, Anderson, S.C., 4–28–73; No. 4319, Columbia, S.C., 3–31–73.

Kuhn's Variety Store, variety-department stores, 4–18–73: Main and Third Street, Russellville, Ky.; 522 Main Street, Shelbyville, KY; 129 Main Street, Dickson, TN; 109 South Elk Street, Fayetteville, TN; Gallatin Plaza Shopping Center, Gallatin, Tenn.; 110 West Broadway, Lenoir City, TN; 4816 Charlotte Road, Nashville, TN; Harding Road, Nashville, Tenn.; 210–214 Cedar Avenue, South Pittsburg, TN.

Larkin Bros., variety-department store; Public Square, Loogootee, Ind.; 4–17–73.

League Ranch, agriculture; 906 Esperson Building, Houston, Tex.; 4–10–73.

Lerner Shops, apparel stores, 4–11–73, except as otherwise indicated: No. 35, Birmingham, Ala. (4–18–73); No. 189, Huntsville, Ala. (4–18–73); No. 93, Montgomery, Ala. (4–18–73); No. 333, Montgomery, Ala. (3–29–73); No. 65, Clearwater, Fla.; Nos. 143 and 185, Fort Lauderdale, Fla.; No. 184, Hollywood, Fla.; Nos. 90 and 144, Jacksonville, Fla.; Nos. 97 and 194, Jacksonville, Fla. (4–18–73); No. 142, Lakeland, Fla. (4–18–73); Nos. 60 and 91, Miami, Fla. (4–18–73); No. 147, Ocala, Fla. (4–18–73); Nos. 122 and 181, Orlando, Fla. (4–18–73); No. 71, Panama City, Fla.; Nos. 45 and 108, St. Petersburg, Fla.; No. 198, St. Petersburg, Fla. (4–23–73); No. 44, Tallahassee, Fla.; Nos. 95 and 141, West Palm Beach, Fla.; No. 88, Augusta, Ga. (4–18–73); No. 135, Columbus, Ga. (3–27–73); No. 128, Macon, Ga. (4–18–73); No. 340, Savannah, Ga. (3–31–73); No. 271, Indianapolis, Ind.; No. 249, Grand Rapids, Mich. (5–22–73); No. 67, Gulfport, Miss. (4–18–73); Nos. 420, 451, and 468, Albuquerque, N. Mex. (4–18–73); No. 89, Asheville, N.C. (5–1–73); No. 39, Charlotte, N.C. (5–1–73); No. 110, Durham, N.C.; No. 351, High Point, N.C. (4–15–73); No. 92, Raleigh, N.C. (4–18–73); No. 79, Wilkes-Barre, Pa. (4–24–73); No. 61, Anderson, S.C. (5–1–73); No. 116, Charleston, S.C.; No. 137, Columbia, S.C.; No. 96, Greenville, S.C.; No. 257, Bristol, Tenn. (3–24–73); No. 186, Chattanooga, Tenn.; No. 120, Newport News, Va.; No. 32, Portsmouth, Va.; No. 121, Bluefield, W. Va. (3–24–73); No. 94, Huntington, W. Va.; Nos. 215 and 248, Milwaukee, Wis. (5–14–73).

Lippert Pharmacy, Inc., drugstore; 103 West Main Street, Lowell, MI; 4–30–73.

Low Cost Discount Mart, foodstores, 3–31–73: 5326 West Indian School Road Phoenix, AZ; 3717 East Thomas Road, Phoenix, AZ; 5560 East Broadway, Tucson, AZ.

Lyle H. Salter, Inc., foodstore; East Arlington, Vt.; 5–22–73.

Market Restaurant, restaurant; 1205 Assembly Street, Columbia, SC; 3–28–73.

Martin's apparel store; 658 Penn Street, Reading, PA; 3–31–73.

McCrory-McLellan-Green Stores, variety-department stores: No. 368, Ormond Beach, Fla., 3–23–73; No. 384, Sanford, Fla., 3–23–73; No. 383, Jacksonville, Ill., 4–23–73; No. 222, Crawfordsville, Ind., 4–30–73; No. 121, Chestertown, Md., 4–17–73; No. 242, Springfield, Mass., 4–8–73; No. 466, St. Paul, Minn., 5–2–72 to 4–30–73; No. 378, Camden, N.J., 3–21–73; No. 352, Toms River, N.J., 3–31–73; No. 268, Kinston, N.C., 3–23–73; No. 399, Lima, Ohio, 4–973; No. 99, Homestead, Pa., 4–17–73; No. 110, Huntingdon, Pa., 4–17–73; No. 206, Westerly, R.I., 4–8–73.

McDonald's Hamburgers, restaurant; 7705 East 87th Street, Kansas City, MO; 4–14–73.

McMaken's Market, Inc., foodstore; Route 311 and Arlington Road, Brookville, Ohio; 4–8–73.

Melman's, foodstore; 924 Brookline Boulevard, Pittsburgh, PA; 3–20–73.

Miller's Foodtown, foodstore; 38 East Center, Moab, UT; 3–31–73.

Morris Field & Co., variety-department store; 13146 Wicker Avenue, Cedar Lake, IN; 3–31–73.

G. C. Murphy Co., variety-department stores, 3–31–73, except as otherwise indicated: No. 96, Jasper, Ala. (4–14–73); No. 289, Gainesville, Fla. (4–25–73); No. 276, Hialeah, Fla. (4–25–73); No. 279, Holly Hill, Fla. (4–25–73); No. 262, Jacksonville, Fla. (4–25–73); No. 264, Miami, Fla. (4–25–73); No. 284, Orlando, Fla. (4–25–73); No. 287, Panama City, Fla. (4–25–73); Nos. 253 and 292, Pensacola, Fla. (4–25–73); No. 272, St. Petersburg, Fla. (4–25–73); No. 290, West Hollywood, Fla. (4–25–73); No. 274, West Palm Beach, Fla. (4–25–73); No. 243, Moultrie, Ga. (4–25–73); No. 251, Berwyn, Ill. (4–24–73); No. 439, Effingham, Ill. (4–24–73); No. 457, Flora, Ill. (4–25–73); No. 112, Pontiac, Ill. (4–24–73); No. 113, Streator, Ill. (4–26–73); No. 449, Vandalia, Ill. (4–24–73); No. 461, Aurora, Ind. (4–27–73); No. 401, Bluffton, Ind. (4–27–73); No. 101, Brazil, Ind. (4–27–73); No. 99, Clinton, Ind. (4–27–73); No. 423, Crawfordsville, Ind. (4–26–73); No. 407, Decatur, Ind. (4–27–73); No. 404, Elwood, Ind. (4–27–73); No. 103, Fort Wayne, Ind. (4–26–73); No. 412, Franklin, Ind. (4–26–73); No. 223, Greensburg, Ind. (4–25–73); No. 408, Hartford City, Ind. (4–27–73); No. 425, Huntingburg, Ind. (4–27–73); Nos. 104 and 215, Indianapolis, Ind. (4–4–73); Nos. 123 and 244, Indianapolis, Ind. (4–26–73); Nos. 235 and 260, Indianapolis, Ind. (4–27–73); No. 445, Kendallville, Ind. (4–26–73); No. 300, Kokomo, Ind. (4–27–73); No. 203, Linton, Ind. (4–27–73); No. 411, Noblesville, Ind. (4–4–73); No. 405, Portland, Ind. (4–27–73); No. 420, Princeton, Ind. (4–27–73); No. 72, Seymour, Ind. (4–27–73); No. 105, Shelbyville, Ind. (4–27–73); No. 114, Washington, Ind. (4–27–73); No. 204, Paintsville, Ky.; No. 176, Pikesville, Ky.; No. 220, Hancock, Md. (4–16–73); No. 436, Charlotte, Mich. (4–30–73); No. 444, Coldwater, Mich. (4–30–73); No. 406, Hillsdale, Mich. (4–30–73); No. 437, Marshall, Mich. (4–30–73); No. 424, Owosso, Mich. (4–30–73); No. 120, St. Joseph, Mich. (4–30–73); No. 451, South Haven, Mich. (4–30–73); No. 161, Minneapolis, Minn. (4–24–73); No. 270, St. Paul, Minn. (4–24–73); No. 249, Hickory, N.C. (4–25–73); No. 181, Alliance, Ohio (4–30–73); No. 140, Barnesville, Ohio (4–30–73); No. 65, Bellaire, Ohio (4–30–73); No. 36, Bellefontaine, Ohio (4–30–73); No. 415, Byran, Ohio (4–30–73); No. 234, Cincinnati, Ohio (4–30–73); No. 110, Circleville, Ohio (4–30–73); No. 291, Cleveland, Ohio (5–8–73); No. 265, Columbus, Ohio (4–30–73); No. 281, Dayton, Ohio (5–8–73); No. 418, Defiance, Ohio (4–30–73); No. 441, Franklin, Ohio (4–30–73); No. 460, Galion, Ohio (4–30–73); Nos. 2 and 468, Gallipolis, Ohio (4–30–73); No. 37, Greenville, Ohio (4–30–73); No. 456, Hillsboro, Ohio (4–30–73); No. 459, Jackson, Ohio (4–30–73); No. 269, Kettering, Ohio (5–7–73); No. 446, Lebanon, Ohio (5–8–73); No. 469, London, Ohio (5–8–73); No. 230, Marion, Ohio (5–8–73); No. 38, Middletown, Ohio (5–8–73); No. 257, North Ridgeville, Ohio (5–8–73); No. 41, Piqua, Ohio (5–8–73); No. 453, St. Marys, Ohio (5–8–73); No. 40, Sidney, Ohio (5–8–73); No. 434, Toledo, Ohio (5–8–73); No. 122, Toronto, Ohio (5–8–73); No. 419, Urbana, Ohio (5–8–73); No. 20, Washington, Ohio (5–7–73); No. 192, Wilmington, Ohio (5–7–73); Nos. 187 and 222, Youngstown, Ohio (5–7–73); No. 311, Altoona, Pa. (3–21–73); No. 321, Belle Vernon, Pa. (4–14–73); No. 210, Oakmont, Pa. (4–13–73); No. 295, Chattanooga, Tenn.; No. 299, Nashville, Tenn.; No. 316, San Antonio, Tex. (4–14–73); Nos. 198 and 241, Alexandria, Va.; No. 214, Arlington, Va.; No. 308, Culpeper, Va.; No. 107, Danville, Va.; No. 278, Lynchburg, Va.; No. 63, Manassas, Va.; No. 24, Newport News, Va.; Nos. 142, 208, and 245, Richmond, Va.; No. 156, Woodbridge, Va.; No. 132, Beckley, W. Va.; No. 50, Buckhannon, W. Va.; No. 171, Clarksburg, W. Va.; No. 15, Elkins, W. Va.; No. 22, Keyser, W. Va.; No. 42, Montgomery, W. Va.; No. 197, Morgantown, W. Va.; No. 18, Moundsville, W. Va.; No. 168, North Fork, W. Va.; No. 213, Oak Hill, W. Va.; No. 212, Parkersburg, W. Va.; No. 49, Piedmont, W. Va.; No. 62, Point Pleasant, W. Va.; No. 154, Princeton, W. Va.; No. 207, South Charleston, W. Va.; No. 195, Spencer, W. Va.; Nos. 162 and 254, Weirton, W. Va.; No. 21, Weston, W. Va.; No. 33, Wheeling, W. Va.; No. 131, Williamson, W. Va.; No. 275, Milwaukee, Wis. (4–27–73).

Mutzabaugh's Meat Market, foodstore; Main Street and Bloomfield Road, Duncannon, Pa.; 3–27–73.

Nathan's Jewelers, jewelry store; 309 Center Avenue, Brownwood, TX; 4–7–73.

Neil Wilson, foodstore; Jefferson, Iowa; 3–31–73.

Neisner Bros., Inc., variety-department stores: No. 203, Tampa, Fla., 4–22–73; No. 35, Chicago, Ill., 4–17–73; No. 76, Chicago, Ill., 4–24–73.

Neumann Food Store, foodstore; 1507 East Juan Linn, Victoria, TX; 3–30–73.

J. J. Newberry Co., variety-department store; No. 415, Wooster, Ohio; 4–22–73.

Newman Pharmacy, Inc., drugstores, 4–2–73: 401 East 103d Street, Chicago, IL; 14201 Chicago Road, Dolton, IL.

North Branch IGA, foodstore; 3820 Huron Street, North Branch, MI; 3–31–73.

North Plaza Shop Rite, foodstore; 1307 North Center Street, Beaver Dam, WI; 4–15–73.

Northern Farmers Co-op Society, variety-department store; Cook, Minn.; 2–28–73.

O'Brien Drugs, drugstore; 11856 South Western Avenue, Chicago, IL; 4–2–73.

Pappi's Pizza & Pub, restaurant; 50 Highway and O'Brien Road, Lee's Summit, Mo.; 4–14–73.

Park 'N Shop Supermarket, foodstore; 54977 Mayflower Road, South Bend, IN; 5–12–72 to 4–30–73.

Paul's IGA, foodstore; Benkelman, Nebr.; 4–6–73.

Payne's Furniture & Appliance, Inc., furniture store; Caddo Mills, Tex.; 4–15–73.

Peterson Drug, Inc., drugstore; Moose Lake, Minn.; 4–1–73.

Piggly Wiggly, foodstores, 3–21–73, except as otherwise indicated: West Main Shopping Center, Centre, Ala. (4–16–73); 501 West Main Street, Hartselle, AL (4–2–73); No. 24, Arkadelphia, Ark.; Nos. 15 and 16, Hot Springs, Ark.; 200–204 Southwest Front

Street, Walnut Ridge, AR (3-31-73); Nos. 1 and 2, Minden, La.; 110 North Pine Street, Vivian, LA; No. 37, Ridgeland, S.C. (3-24-73); 100-108 Richardson Avenue, Summerville, SC (4-7-73); No. 7, Jackson, Tenn. (3-20-73).

Pinecrest Medical Care Facility, nursing home; Powers, Mich. 4-21-73.

Pittston Hospital, hospital; Pittston, Pa.; 4-17-73.

Pleesing Food Store, Inc., foodstore; Pensacola, Fla.; 4-26-73.

The Poor Sisters of Nazareth, Inc., nursing home; 814 Jackson Street, Stoughton, WI; 4-27-73.

Portland IGA Foodliner, foodstore; 228 Bridge Street, Portland, MI; 4-1-73.

Prairie Village Ben Franklin, variety-department store; 6955 Tomahawk Road, Prairie Village, KS; 3-28-72 to 3-21-73.

Price-Black Farms, Inc., agriculture; Arrey, N. Mex.; 3-30-73.

Quality Market, foodstore; Delta, Utah; 3-24-73.

R & G Market, Foodstore; 523 South 17th Street, Manhattan, KS; 3-30-73.

Randall's Food Market, Inc., foodstores, 3-22-73, excepts as otherwise indicated; Nos. 1 and 2, Houston, Tex.; No. 3, Houston, Tex. (3-26-73).

Rawlinson's Red & White, Inc., foodstore; Main Street, Greenville, S.C.; 3-21-73.

Raylass Department Store, variety-department stores, 4-30-73, except as otherwise indicated: 835-841 Board Street, Augusta, GA; 1123-1125 Broadway, Columbus, GA (5-3-73); 315 West Main Street, Durham, NC; 202 Hay Street, Fayetteville, NC; 102-104 West Main Street, Gastonia, NC.

Regan's Restaurant, restaurants, 3-30-73; 8031 Metcalf, Overland Park, KS; 95th and Hall, Overland Park, Kans.; 6425 Oak Trafficway, Gladstone, MO; 11124 Holms, Kansas City, MO.

Richards Brothers, variety-department store; Mountain Grove, Mo.; 3-29-73.

Ridgecrest Pharmacy, Inc., drugstore; 2329 Rochelle, Irving, TX; 3-31-73.

Robinsons Co., variety-department store; Osceola, Iowa; 3-26-73.

Robinson's Hardware, hardware store; 221 Morley Avenue, Nogales, AZ; 3-31-73.

Russell Lee Sall, agriculture; 12227 68th Avenue, Allendale, MI; 4-9-73.

St. Joseph Community Hospital, hospital; 308 North Maple Avenue, New Hampton, IA; 4-3-73.

St. Joseph Hospital, hospital; 312 East Alta Vista, Ottumwa, IA; 3-20-73.

St. Joseph's Hospital, hospital; 200-210 Michigan Street, Hancock, MI; 3-24-73.

St. Mary's Hospital, hospital; 15th and State, Emporia, Kans.; 4-11-73.

San Rosario Hospital, hospital; 110 Canfield Street, Cambridge Springs, PA; 3-31-73.

Schensul's Cafeteria, Inc., restaurants: Eastland Mall, Flint, Mich., 3-31-73; 333 South Burdick Street, Kalamazoo, MI, 4-24-73.

Scott Stores Co., variety-department stores: No. 9123, Chicago, Ill., 4-27-73; No. 9239, Dolton, Ill., 4-9-73.

Shakertown, Inc., restaurant; Route 4, Harrodsburg, Ky.; 4-18-73.

Shoe Fair Stores, Inc., shoestore; 5872 West Fort Street, Detroit, MI; 5-9-73.

Sinbro's, variety-department store; 105 South Center Street, Thomaston, GA; 3-26-73.

The Sophers, Inc., apparel store; 11-13 South Third Street, Oxford, PA; 3-31-73.

Spies Supermarket, Inc., foodstores, 4-10-73: Sixth Street and Breckenridge, Breckenridge, Minn.; Ninth and Dakota Avenue, Wahpeton, N. Dak.; 521 Sixth Avenue, Brookings, SD; 205-209 North Van Epps, Madison, SD; Watertown, S. Dak.

Spurgeon's, variety-department stores: 124 South Banker Street, Effingham, IL, 4-14-73; Market Place Shopping Center, McHenry, Ill., 4-13-73; 100 West Washington Street, Pittsfield, IL, 5-28-72 to 4-30-73; 117 East Second Street, Muscatine, IA, 3-29-73.

Stafford's Shopping Center, Inc., foodstore; 1509 Chatsworth Road, Dalton, GA; 4-21-73.

Star's Fashion World, apparel store; 15th Street and Greenup Avenue, Ashland, Ky.; 3-31-73.

Sterling Stores Co., variety-department store; 417 Cherry Street, Helena, AR; 3-26-72.

Stobie Shopping Center, foodstores, 4-14-73: No. 2, Plains, Mont.; No. 1, Thompson Falls, Mont.

Sullivan Food Service, Inc., restaurant; 5235 Gratiot, Saginaw, MI; 3-31-73.

Summit Mercantile Co., foodstore; Blackduck, Minn.; 4-20-73.

Sunset Home of the United Methodist Church, nursing home; 418 Washington, Quincy, IL; 3-21-73.

Super Drive-Ins, foodstores: No. 4, Clarksville, Tenn., 3-31-73; No. 6, Hermitage, Tenn.; 4-14-73.

Sutton's Food Mart, foodstore; 1313 West 21st Street, Topeka, KS; 4-1-73.

T. G. & Y. Stores Co., variety-department stores, 3-31-73, except as otherwise indicated: Nos. 183, 193, and 194, Phoenix, Ariz.; No. 9206, Nashville, Ark. (4-5-73); No. 2102, Russellville, Ark. (4-12-73); No. 712, Texarkana, Ark. (4-12-73); No. 530, Thousand Oaks, Calif. (3-27-72 to 2-28-73); No. 737, Eau Gallie, Fla.; No. 1305, Orlando, Fla. (5-7-73); No. 92, El Dorado, Kans. (4-12-73); No. 313, Great Bend, Kans. (3-25-73); No. 133, Olathe, Kans. (4-1-73); No. 325, Overland Park, Kans. (4-1-73); No. 795, Gonzales, La. (4-12-73); No. 745, Sulphur, La. (3-24-73); No. 463, Belton, Mo. (4-16-73); No. 9313, Flat River, Mo. (4-7-73); No. 146, Raytown, Mo. (4-7-73); No. 198, Albuquerque, N. Mex. (4-5-73); No. 4, Duncan, Okla.; No. 73, Oklahoma City, Okla. (4-6-73); No. 431, Oklahoma City, Okla. (4-12-73); Nos. 441 and 442, Oklahoma City, Okla. (3-22-73); No. 1003, Oklahoma City, Okla. (3-24-73); No. 41, Tulsa, Okla. (4-16-73); No. 51, Tulsa, Okla. (4-12-73); No. 1006, Tulsa, Okla. (4-1-73); No. 244, Baytown, Tex. (4-12-73); No. 394, Baytown, Tex. (4-11-73); No. 837, Garland, Tex.; No. 383, Houston, Tex. (4-11-73); No. 279, Odessa, Tex.; No. 227, Port Arthur, Tex. (3-30-73).

Tautfest Hardware & Appliance & Furniture, hardware store; 102 West Main, Weatherford, OK; 3-25-73.

Taylor Pharmacy, drugstore; 2044 South Richey, Pasadena, TX; 3-23-73.

The Thrift Store, foodstore; 12 Park Street, Headland, AL; 4-16-73.

Tom's Super Market, Inc., foodstore; Front Street at Kellner Boulevard, Rensselaer, Ind.; 5-14-73.

Tower Super Markets, Inc., foodstore; 167 Main Street, Eldred, PA; 4-10-73.

United Super Save, United Market, foodstore; 422 East 900 South, Salt Lake City, UT; 4-5-73.

Valian's, Inc., restaurant; 6935 South Main, Houston, TX; 3-24-73.

Variety Investments, Inc., variety-department store; 1347 Portage Avenue, South Bend, IN; 4-18-73.

Vic Bernacchi & Sons, Inc., agriculture; 2429 South Monroe Street, La Porte, IN; 3-25-73.

P. E. Ward & Co., furniture store; Union Square, Dover-Foxcroft, Maine; 4-6-73.

J. Watercott & Co., variety-department store; 500 Edward Street, Henry, IL; 3-27-73.

Wessies Bros. Farms, Inc., agriculture; 10126 Walsh Road, Montague, MI; 3-26-73.

Wood's 5 & 10¢ Stores, Inc., variety-department store; Laurinburg, N.C.; 3-31-73.

Woody's Super Market, foodstore; 104 Main Street, Wolfe City, TX; 3-28-73.

Wright's Food Service, Inc., foodstore; 731 Elm Street, Union City, IN; 4-24-73.

Younker Brothers, Inc., variety-department store; Fairway Shopping Center, Burlington, Iowa; 3-31-73.

Zarda Bros. Dairy, Inc., foodstores, 3-31-73, except as otherwise indicated: No. 8, Olathe, Kans.; No. 1, Shawnee, Kans.; No. 6, Gladstone, Mo.; No. 4, Grandview, Mo. (3-22-72 to 3-15-73); No. 5, Independence, Mo.; No. 2, Kansas City, Mo. (3-22-72 to 3-15-73); No. 3, Raytown, Mo. (3-22-72 to 3-15-73).

Zimmerman's Department Store, variety-department store; 110 North Main Street, Salisbury, NC; 4-8-73.

The following certificates issued to establishments permitted to rely on the base-year employment experience of others were either the first full-time student certificates issued to the establishment, or provide standards different from those previously authorized. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Adams Food Villa, foodstore; 8989 River Road, Destrehan, LA; stock clerk, cleanup, bagger, carryout; 17 percent; 5-14-73.

Big K Discount Department Store, variety-department store; U.S. Highway 25 and 70, Newport, Tenn.; salesclerk, stock clerk, office clerk; 11 to 59 percent; 4-30-73.

Buckner IGA Foodliner, foodstore; Highway 24 and Hudson Road, Buckner, Mo.; stock clerk, carryout, bottle clerk; 11 to 29 percent; 4-14-73.

Cedar Center Pharmacy, drugstore; 13922 Cedar Road, University Heights, OH; stock clerk, delivery clerk; 20 to 25 percent; 5-14-73.

Charlie's IGA, foodstore; 181 Clay Street, Tecumseh, NE; stock clerk, sacker, carryout, cleanup; 15 to 38 percent; 4-30-73.

El Rancho Markets, foodstore; Thunderbird Road and Del Webb Boulevard, Sun City, Ariz.; box clerk, courtesy clerk; 21 to 25 percent; 3-31-73.

Fords IGA, Inc., foodstore; 520 High Street, Baldwin City, KS; carry out, stock clerk, produce clerk, checkout; 20 percent; 4-14-73.

George Lindsey Steak House, restaurants, for the occupations of cashier, busboy (girl), dishwasher, waitress (waiter), cook, 14 to 17 percent, 3-31-73: No. 1, Springfield, Mo.; No. 6, Memphis, Tenn.

Haag's Clover Farm, foodstore; Millry, Ala.; stock clerk, bagger, checker, product demonstrator; 16 to 37 percent; 3-31-73.

Hardee's, restaurant; 5322 Troost, Kansas City, MO; general restaurant worker; 31 to 58 percent; 4-30-73.

Hudson Super Valu, foodstore; Hudson, Wis.; carryout, checker, cleanup, stock clerk; 14 to 21 percent; 3-31-73.

Jim Dandy Drive-In, restaurant; 1803 South Anderson Street, Elwood, IN; waitress (waiter), curb girl (boy), cook; 27 to 48 percent; 3-31-73.

Kay Baum, Inc., apparel stores, for the occupation of stock clerk, 4 to 21 percent, 4-30-73: 125 East Grand River, East Lansing, MI; Northland Shopping Center, Southfield, Mich.

King's Food Host, restaurant; 101 North East Vivion Road, Kansas City, MO; general restaurant worker; 31 to 58 percent; 4-30-73.

S. S. Kresge Co., variety-department store; No. 4459, Hinsdale, Ill.; salesclerk, stock clerk, office clerk, maintenance, checker-cashier; 12 to 20 percent; 4-14-73.

Lerner Shops, apparel store; No. 489, Colorado Springs, Colo.; salesclerk, cashier, credit clerk; 10 to 28 percent; 3-31-73.

McCrory-McLellan-Green Stores, variety-department stores: No. 286, Lake Wales, Fla.,

salesclerk, office clerk, stock clerk, 1 to 40 percent, 4–30–73; No. 34, Lake Charles, La., salesclerk, stock clerk, 6 to 11 percent, 4–14–73.

Mister Car Wash, carwash; 640 West Crosstimbers, Houston, TX; carwash attendant, service station attendant; 19 to 20 percent; 4–14–73.

Moots Osteopathic Hospital, Inc., hospital; Eight North Rowe, Pryor, OK; receptionist; 2 percent; 4–14–73.

Moulton Drug Co., drugstore; Moulton, Ala.; soda fountain clerk; 10 to 15 percent; 4–30–73.

Poteau Food Market, Inc., foodstores, for the occupations of stock clerk, sacker, 19 to 31 percent, 4–16–73: Nos. 2 and 3, Poteau, Okla.

Quality Market, foodstore; 56 East Center Street, Naphi, UT; box clerk, stock clerk, office clerk; 8 to 17 percent; 3–31–73.

Rose's Stores, Inc., variety-department store; No. 217, Virginia Beach, Va.; salesclerk, 13 to 31 percent: 3–31–73.

Royce's Food Market, foodstore; 115 West Smith Street, Hesston, KS; stock clerk, carryout, janitorial; 10 to 18 percent; 4–14–73.

Scott Stores Co., variety-department store; No. 9209, Fergus Falls, Minn.; salesclerk, stock clerk, office clerk; 0.6 to 25 percent; 4–14–73.

Sirloin Corral, restaurant; 1001 Boomer Road, Stillwater, OK; general restaurant worker; 20 to 45 percent; 4–30–73.

Super Drive-Ins, foodstore; No. 10, Nashville, Tenn.; sacker, bottle clerk; 21 to 30 percent; 4–14–73.

T. G. & Y. Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 4–14–73: No. 134, Arkansas City, Kans., 14 to 30 percent; No. 1018, Tahlequah, Okla., 9 to 16 percent.

The Village Scene, apparel store; 2446 Miracle Lane, Mishawaka, IN; salesclerk, stock clerk; 6 to 23 percent; 4–30–73.

Village Vista, nursing home; 1941 Benmar Drive, PA; nurse's aide, kitchen helper; 4 to 19 percent; 4–30–73.

Wm. A. Lewis Clothing Co., apparel; Melrose Park, Ill; receptionist, check writer, wrapper, stock clerk; 10 percent; 5–14–73.

Zarda Bros. Dairy, Inc., foodstore; Overland Park, Kans.; soda fountain clerk, 54 to 78 percent; 4–30–73.

Zimmerman's Dept. Store, Inc., variety-department store; 200 South Main Street, Lexington, NC; salesclerk, stock clerk, checker, office clerk; 45 to 57 percent; 4–14–73.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

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

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72–11500 Filed 7–24–72;8:56 am]

INTERSTATE COMMERCE COMMISSION

[Notice 36]

ASSIGNMENT OF HEARINGS

JULY 19, 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–C7405, William E. Hesselgrave, doing business as Puget Sound Tours, and George V. Hesselgrave, doing business as Bellingham Ferndale Stages, Investigation of Operations, MC 136189, George V. Hesselgrave, doing business as Hesselgrave Charter Service, MC 136300, Puget Sound Tours, now being assigned continued hearing September 18, 1972, at Seattle, Wash., in a hearing room to be later designated.

MC 135519 Sub 2, George B. Samac and Anthony G. Ayala, doing business as Queen City Trucking, now being assigned hearing September 20, 1972, at Seattle, Wash., in a hearing room to be later designated.

MC 117304 Sub 29, Don Paffile, doing business as Paffile Truck Lines, now being assigned hearing September 25, 1972, at Spokane, Wash., in a hearing room to be later designated.

MC 61592 Sub 260, Jenkins Truck Line, Inc., now being assigned hearing September 11, 1972 (2 days), at San Francisco, Calif., in a hearing room to be later designated.

MC 114211 Sub 166, Warren Transport, Inc., now being assigned hearing September 13, 1972 (3 days), at San Francisco, Calif., in a hearing room to be later designated.

MC–C 7795 Eagle Motor Lines, Inc., Investigation and Revocation of Certificates, now assigned July 24, 1972, at Birmingham, Ala., hearing is postponed to July 31, 1972, Birmingham, Ala., in Room 224, Old U.S. Post Office and Federal Building, 1800 Fifth Avenue, North, Birmingham, AL.

MC–125996 Sub 26, Road Runner Trucking, Inc., now assigned July 20, 1972, at Omaha, Nebr., hearing is canceled and application dismissed.

MC 118959 Sub 103, Jerry Lipps, Inc., now assigned July 20, 1972, at Louisville, Ky., hearing is canceled and application dismissed.

MC 53965 Sub 80, Graves Truck Line, Inc., now assigned September 11, 1972, will be held in the Ramada Inn, 222 East Diamond Drive, Salina, KS.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–11477 Filed 7–24–72;8:54 am]

[Notice 37]

ASSIGNMENT OF HEARINGS

JULY 20, 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–C–7700, East Texas Motor Freight Lines, Inc., Investigation and Revocation of Certificates, now being assigned hearing August 17, 1972 (2 days), at Portland, Oreg., in a hearing room to be later designated.

MC 1042 Sub 7, C. P. T. Freight, Inc., MC 45716 Sub 8, Welsh Bros. Motor Service, Inc., now assigned August 22, 1972, will be held in Room 1086 A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC–107295 Sub 582, Pre-Fab Transit Co., now assigned August 8, 1972, at Chicago, Ill., MC–107295 Sub 586, Pre-Fab Transit Co., now assigned hearing August 7, 1972, MC–116273 Sub 149, D & L Transport, Inc., now assigned hearing August 9, 1972, will be held in Room 1430 Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC–61231 Sub 58, Ace Lines, Inc., now assigned hearing August 3, 1972, at St. Louis, Mo., MC–83835 Sub 89, Wales Transportation Inc., now assigned hearing August 4, 1972, MC–135649 Sub 1, Friederich Truck Service, Inc., now assigned hearing August 1, 1972, will be held in Room 1612, 1520 Market Street, Chicago, IL.

MC 134263, E. L. Warthen, doing business as Redway Carriers, now assigned September 12, 1972, will be held in Room 1430, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 135772, Barrett Transfer & Storage Co., now assigned July 25, 1972, at Seattle, Wash., continued hearing is postponed indefinitely.

MC–56679 Sub 66, Brown Transport Corp., MC–136230, Interstate Warehousing Corp., now assigned July 31, 1972, at Atlanta, Ga., is postponed indefinitely.

MC–74321 Sub 55, B. F. Walker, Inc., now assigned July 24, 1972, at Denver, Colo., hearing is canceled and application dismissed.

MC–114211 Sub 168, Warren Transport, Inc., MC–118806 Sub 23, Arnold Bros. Transport, Ltd., now assigned August 7, 1972, at Minneapolis, Minn., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–11478 Filed 7–24–72;8:54 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 20, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed

within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42481—*Gypsum from Stucco, Wyo.* Filed by Western Trunk Line Committee, agent (No. A-2669), for interested rail carriers. Rates on gypsum, crude, ground or granular, in carloads, as described in the application, from Stucco, Wyo., to points in western trunkline (including Illinois) territory.

Grounds for relief—Market competition.

Tariff—Supplement 158 to Western Trunk Line Committee, agent, tariff I.C.C. A-4421. Rates are published to become effective on August 27, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-11479 Filed 7-24-72;8:54 am]

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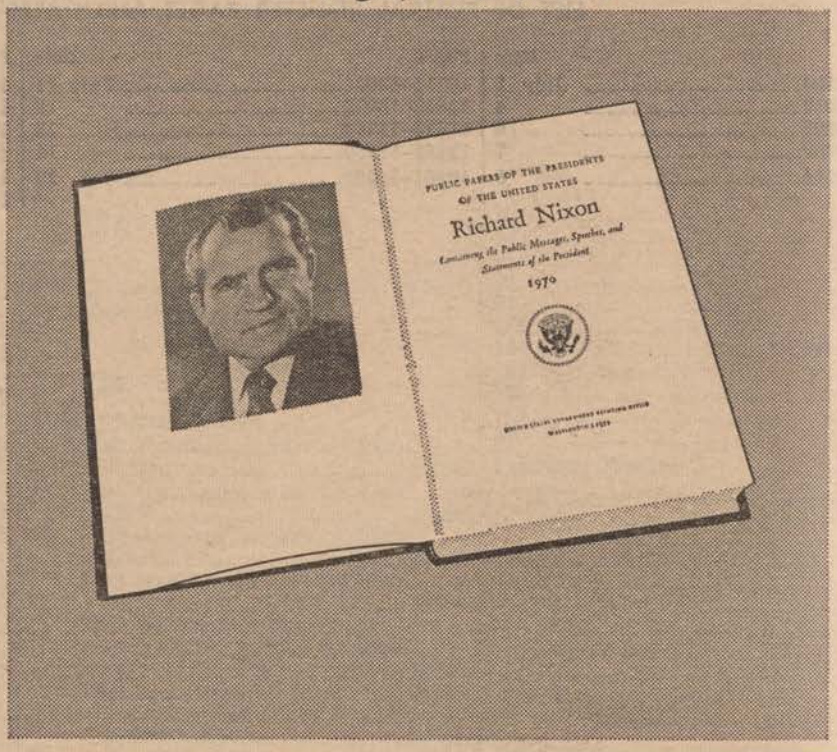

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