AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

federal register

WEDNESDAY, AUGUST 23, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 164

Pages 16899–17011

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Order from: Superintendent of Documents
U.S. Government Printing Office,
Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 3—The President

PROCLAMATION 4146

Leif Erikson Day, 1972

By the President of the United States of America

A Proclamation

In the year 1000, Norse explorer Leif Erikson braved the then uncharted waters of the North Atlantic to reach the New World's shores. He and his small band exhibited through their explorations a spirit of adventure and courage which overcame the fears binding so many of their fellow Europeans to the Old World.

Now, more than nine hundred years later, we must summon those same qualities to aid us in meeting the challenges of this world and exploring the unknown of outer space. It is most appropriate that we give national recognition to Leif Erikson, and I am happy to comply with the request of the Congress of the United States, in a joint resolution approved September 2, 1964 (78 Stat. 849), that the President proclaim October 9 in each year as Leif Erikson Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Monday, October 9, 1972, as Leif Erikson Day; and I direct the appropriate Government officials to display the flag of the United States on all Government buildings that day.

I also invite the people of the United States to honor the memory of Leif Erikson on that day by holding appropriate exercises and ceremonies in suitable places across our land.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of August, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-14381 Filed 8-21-72;2:45 pm]

EXECUTIVE ORDER 11680

Designation of Certain Officers To Act as Secretary of the Treasury

By virtue of the authority vested in me by section 3347 of title 5 and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. In case of the death, resignation, absence, or sickness of the Secretary of the Treasury and the Deputy Secretary of the Treasury, the following officers of the Treasury Department shall, in the order of the succession indicated, act as Secretary of the Treasury until a successor is appointed or until the absence or sickness of the incumbent shall cease:

1. Under Secretary for Monetary Affairs.

2. Under Secretary (or Counselor).

3. General Counsel.

4. The Assistant Secretaries and the Deputy Under Secretaries of the Treasury (a) in such order of succession as the Secretary of the Treasury may by order fix from time to time, or (b) if no order of succession is so fixed at the time, then in the order in which they have taken office as Assistant Secretary or Deputy Under Secretary, as the case may be.

Sec. 2. Executive Order No. 10941 of May 15, 1961, entitled "Designation of Certain Officers to Act as Secretary of the Treasury", is hereby revoked.

Richard Nixon

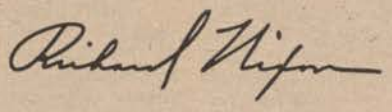
THE WHITE HOUSE,
August 21, 1972.

[FR Doc.72-14380 Filed 8-21-72;2:45 pm]

EXECUTIVE ORDER 11681

Revoking Executive Order No. 5221 of November 11, 1929, establishing a limitation on non-official employment of officers or employees of the American Government

By virtue of the authority vested in me as President of the United States, Executive Order No. 5221 of November 11, 1929, entitled "Limitation on non-official Employment of Officers or Employees of the American Government", is hereby revoked.



THE WHITE HOUSE,
August 21, 1972.

[FR Doc.72-14404 Filed 8-21-72;3:58 pm]

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Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7201]

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

Accounting for Redemption of Trading Stamps and Coupons

On May 6, 1972, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 451 of the Internal Revenue Code of 1954, relating to accounting for redemption of trading stamps and coupons, was published in the FEDERAL REGISTER (36 F.R. 9287). After consideration of all relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the change set forth below:

The notice of proposed rule making is changed by the amendment of paragraphs (b)(1)(iii) and (d)(2) of § 1.451–4. These amended provisions read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: August 17, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

In order to clarify the Income Tax Regulations (26 CFR Part 1) under section 451 of the Internal Revenue Code of 1954, such regulations are amended as follows:

Section 1.451–4 is amended to read as follows:

§ 1.451–4 Accounting for redemption of trading stamps and coupons.

(a) *In general*—(1) *Subtraction from receipts.* If an accrual method taxpayer issues trading stamps or premium coupons with sales, or an accrual method taxpayer is engaged in the business of selling trading stamps or premium coupons, and such stamps or coupons are redeemable by such taxpayer in merchandise, cash, or other property, the taxpayer should, in computing the income from such sales, subtract from gross receipts with respect to sales of such stamps or coupons (or from gross receipts with respect to sales with which trading stamps or coupons are issued) an amount equal to—

(i) The cost to the taxpayer of merchandise, cash, and other property used for redemptions in the taxable year,

(ii) Plus the net addition to the provision for future redemptions during the taxable year (or less the net subtraction from the provision for future redemptions during the taxable year).

(2) *Trading stamp companies.* For purposes of this section, a taxpayer will be considered as being in the business of selling trading stamps or premium coupons if—

(i) The trading stamps or premium coupons sold by him are issued by purchasers to promote the sale of their merchandise or services,

(ii) The principal activity of the trade or business is the sale of such stamps or coupons,

(iii) Such stamps or coupons are redeemable by the taxpayer for a period of at least 1 year from the date of sale, and

(iv) Based on his overall experience, it is estimated that not more than two-thirds of the stamps or coupons sold which it is estimated, pursuant to paragraph (c) of this section, will be ultimately redeemed, will be redeemed within 6 months of the date of sale.

(b) *Computation of the net addition to or subtraction from the provision for future redemptions*—(1) *Determination of the provision for future redemptions.* (i) The provision for future redemptions as of the end of a taxable year is computed by multiplying "estimated future redemptions" (as defined in subdivision (ii) of this subparagraph) by the estimated average cost of redeeming each trading stamp or coupon (computed in accordance with subdivision (iii) of this subparagraph).

(ii) For purposes of this section, the term "estimated future redemptions" as of the end of a taxable year means the number of trading stamps or coupons outstanding as of the end of such year that it is reasonably estimated will ultimately be presented for redemption. Such estimate shall be determined in accordance with the rules contained in paragraph (c) of this section.

(iii) For purposes of this section, the estimated average cost of redeeming each trading stamp or coupon shall be computed by including only the costs to the taxpayer of acquiring the merchandise, cash, or other property needed to redeem such stamps or coupons. The term "the costs to the taxpayer of acquiring the merchandise, cash, or other property needed to redeem such stamps or coupons" includes only the price charged by the seller (less trade or other discounts, except strictly cash discounts approximating a fair interest rate, which may be deducted or not at the option of the taxpayer provided a consistent course is followed) plus transportation or other necessary charges in acquiring possession of the goods. Items such as the costs of advertising, catalogs, operating redemption centers, transporting merchandise or other property from a central warehouse to a branch warehouse (or from a warehouse to a redemption center), and storing the merchandise or other property used to redeem stamps or coupons should not be included in costs of redeeming stamps or premium coupons, but rather should be accounted for in accordance with the provisions of sections 162 and 263.

(2) *Changes in provision for future redemptions.* For purposes of this section, a "net addition to" or "net subtraction from" the provision for future redemptions for a taxable year is computed as follows:

(i) Carry over the provision for future redemptions (if any) as of the end of the preceding taxable year,

(ii) Compute the provision for future redemptions as of the end of the taxable year in accordance with subparagraph (1) of this paragraph, and

(iii) If the amount referred to in subdivision (ii) of this subparagraph exceeds the amount referred to in subdivision (i) of this subparagraph, such excess is the net addition to the provision for future redemptions for the taxable year. On the other hand, if the amount referred to in such subdivision (i) exceeds the amount referred to in such subdivision (ii), such excess is the net subtraction from the provision for future redemptions for the taxable year.

(3) *Example.* The provisions of this paragraph and paragraph (a)(1) of this section may be illustrated by the following example:

Example. (a) X Company, a calendar year accrual method taxpayer, is engaged in the business of selling trading stamps to merchants. In 1971, its first year of operation, X sells 10 million stamps at $5 per 1,000; it redeems 3 million stamps for merchandise and cash of an average value of $3 per 1,000 stamps. At the end of 1971 it is estimated (pursuant to paragraph (c) of this section) that a total of 9 million stamps of the 10 million stamps issued in 1971 will eventually be presented for redemption. At this time it is estimated that the average cost of redeeming stamps (as described in subparagraph (1)(iii) of this paragraph) would continue to be $3 per 1,000 stamps. Under these circumstances, X computes its gross income from sales of trading stamps as follows:

Gross receipts from sales (10 million stamps at $5 per 1,000)		$50,000
Less:		
Cost of actual redemptions (3 million stamps at $3 per 1,000)	$9,000	
Provision for future redemptions on December 31, 1971 (9 million stamps — 3 million stamps x $3 per 1,000)	18,000	
		27,000
1971 gross income from sales of stamps		23,000

(b) In 1972, X also sells 10 million stamps at $5 per 1,000 stamps. During 1972 X redeems 7 million stamps at an average cost of $3.01 per 1,000 stamps. At the end of 1972 it is determined that the estimated future redemptions (within the meaning of subparagraph (1)(ii) of this paragraph) is 8 million. It is further determined that the estimated average cost of redeeming stamps would continue to be $3.01 per 1,000 stamps. X thus computes its gross income from sales of trading stamps for 1972 as follows:

Gross receipts from sales (10 million stamps at $5 per 1,000)		$50,000
Less:		
Cost of actual redemptions (7 million stamps at $3.01 per 1,000)	$21,070	
Plus:		
Provision for future redemptions on Dec. 31, 1972 (8 million stamps at $3.01 per 1,000)	$24,080	
Minus provision for future redemptions on Dec. 31, 1971	18,000	
Addition to provision for future redemptions	6,080	
Total cost of redemptions		27,150
1972 Gross income from sales of stamps		22,850

(c) *Estimated future redemptions*—(1) *In general.* A taxpayer may use any method of determining the estimated future redemptions as of the end of a year so long as—

(i) Such method results in a reasonably accurate estimate of the stamps or coupons outstanding at the end of such year that will ultimately be presented for redemption,

(ii) Such method is used consistently, and

(iii) Such taxpayer complies with the requirements of this paragraph and paragraphs (d) and (e) of this section.

(2) *Utilization of prior redemption experience.* Normally, the estimated future redemptions of a taxpayer shall be determined on the basis of such taxpayer's prior redemption experience. However, if the taxpayer does not have sufficient redemption experience to make a reasonable determination of his "estimated future redemptions," or if because of a change in his mode of operation or other relevant factors the determination cannot reasonably be made completely on the basis of the taxpayer's own experience, the experiences of similarly situated taxpayers may be used to establish an experience factor.

(3) *One method of determining estimated future redemptions.* One permissible method of determining the estimated future redemptions as of the end of the current taxable year is as follows:

(i) Estimate for each preceding taxable year and the current taxable year the number of trading stamps or coupons issued for each such year which will ultimately be presented for redemption.

(ii) Determine the sum of the estimates under subdivision (i) of this subparagraph for each taxable year prior to and including the current taxable year.

(iii) The difference between the sum determined under subdivision (ii) of this subparagraph and the total number of trading stamps or coupons which have already been presented for redemption is the estimated future redemptions as of the end of the current taxable year.

(4) *Determination of an "estimated redemption percentage."* For purposes of applying subparagraph (3)(i) of this paragraph, one permissible method of estimating the number of trading stamps or coupons issued for a taxable year that will ultimately be presented for redemption is to multiply such number of stamps issued for such year by an "estimated redemption percentage." For purposes of this section the term "estimated redemption percentage" for a taxable year means a fraction, the numerator of which is the number of trading stamps or coupons issued during a taxable year that it is reasonably estimated will ultimately be redeemed, and the denominator of which is the number of trading stamps or coupons issued during such year. Consequently, the product of such percentage and the number of stamps issued for such year equals the number of trading stamps or coupons issued for such year that it is estimated will ultimately be redeemed.

(5) *Five-year rule.* (i) One permissible method of determining the "estimated redemption percentage" for a taxable year is to—

(*a*) Determine the percentage which the total number of stamps or coupons redeemed in the taxable year and the 4 preceding taxable years is of the total number of stamps or coupons issued or sold in such 5 years; and

(*b*) Multiply such percentage by an appropriate growth factor as determined pursuant to guidelines published by the Commissioner.

(ii) If a taxpayer uses the method described in subdivision (i) of this subparagraph for a taxable year, it will normally be presumed that such taxpayer's "estimated redemption percentage" is reasonably accurate.

(6) *Other methods of determining estimated future redemptions.* (i) If a taxpayer uses a method of determining his "estimated future redemptions" (other than a method which applies the 5-year rule as described in subparagraph (5)(i) of this paragraph) such as a probability sampling technique, the appropriateness of the method (including the appropriateness of the sampling technique, if any) and the accuracy and reliability of the results obtained must, if requested, be demonstrated to the satisfaction of the district director.

(ii) No inference shall be drawn from subdivision (i) of this subparagraph that the use of any method to which such subdivision applies is less acceptable than the method described in subparagraph (5)(i) of this paragraph. Therefore, certain probability sampling techniques used in determining estimated future redemptions may result in reasonably accurate and reliable estimates. Such a sampling technique will be considered appropriate if the sample is—

(*a*) Taken in accordance with sound statistical sampling principles,

(*b*) In accordance with such principles, sufficiently broad to produce a reasonably accurate result, and

(*c*) Taken with sufficient frequency as to produce a reasonably accurate result.

In addition, if the sampling technique is appropriate, the results obtained therefrom in determining estimated future redemptions will be considered accurate and reliable if the evaluation of such results is consistent with sound statistical principles. Ordinarily, samplings and recomputations of the estimated future redemptions will be required annually. However, the facts and circumstances in a particular case may justify such a recomputation being taken less frequently than annually. In addition, the Commissioner may prescribe procedures indicating that samples made to update the results of a sample of stamps redeemed in a prior year need not be the same size as the sample of such prior year.

(d) *Consistency with financial reporting*—(1) *Estimated future redemptions.* For taxable years beginning after (the date of adoption of these regulations), the estimated future redemptions must be no greater than the estimate that the taxpayer uses for purposes of all reports (including consolidated financial statements) to shareholders, partners, beneficiaries, other proprietors, and for credit purposes.

(2) *Average cost of redeeming stamps.* For taxable years beginning after [the date of adoption of these regulations], the estimated average cost of redeeming each stamp or coupon must be no greater than the average cost of redeeming each stamp or coupon (computed in accordance with paragraph (b)(1)(iii) of this section) that the taxpayer uses for purposes of all reports (including consolidated financial statements) to shareholders, partners, beneficiaries, other proprietors, and for credit purposes.

(e) *Information to be furnished with return*—(1) *In general.* For taxable years beginning after (the date of adoption of these regulations), a taxpayer described in paragraph (a) of this section who uses a method of determining the "estimated future redemptions" other than that described in paragraph (c)(5)(i) of this section shall file a statement with his return showing such information as is necessary to establish the correctness of the amount subtracted from gross receipts in the taxable year.

(2) *Taxpayers using the 5-year rule.* If a taxpayer uses the method of determining estimated future redemptions described in paragraph (c)(5)(i) of this section, he shall file a statement with his return showing, with respect to the taxable year and the 4 preceding taxable years—

(i) The total number of stamps or coupons issued or sold during each year, and

(ii) The total number of stamps or coupons redeemed in each such year.

(3) *Trading stamp companies.* In addition to the information required by subparagraph (1) or (2) of this paragraph, a taxpayer engaged in the trade or business of selling trading stamps or premium coupons shall include with the statement described in subparagraph (1)

or (2) of this paragraph such information as may be necessary to satisfy the requirements of paragraph (a)(2)(iv) of this section.

[FR Doc.72-14184 Filed 8-22-72;8:45 am]

[T.D. 7202]

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

Charitable Remainder Trusts

On August 5, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 12467) with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to provide regulations under section 664 of the Internal Revenue Code of 1954, relating to charitable remainder trusts, as added by section 201(e) of the Tax Reform Act of 1969 (83 Stat. 562, Public Law 91-172). On September 18, 1971, notice was published in the FEDERAL REGISTER (36 F.R. 18667) that portions of the proposed rules in the prior notice of proposed rule making were withdrawn and that new rules were proposed to be prescribed in lieu of the rules withdrawn. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following amendment of the regulations is adopted:

PARAGRAPH 1. The following new sections are added immediately after § 1.663-4:

§ 1.664 Statutory provisions; charitable remainder trusts.

Sec. 664. *Charitable remainder trusts*—(a) *General rule.* Notwithstanding any other provision of this subchapter, the provisions of this section shall, in accordance with regulations prescribed by the Secretary or his delegate, apply in the case of a charitable remainder annuity trust and a charitable remainder unitrust.

(b) *Character of distributions.* Amounts distributed by a charitable remainder annuity trust or by a charitable remainder unitrust shall be considered as having the following characteristics in the hands of a beneficiary to whom is paid the annuity described in subsection (d)(1)(A) or the payment described in subsection (d)(2)(A):

(1) First, as amounts of income (other than gains, and amounts treated as gains, from the sale or other disposition of capital assets) includible in gross income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years;

(2) Second, as a capital gain to the extent of the capital gain of the trust for the year and the undistributed capital gain of the trust for prior years;

(3) Third, as other income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years; and

(4) Fourth, as a distribution of trust corpus.

For purposes of this section, the trust shall determine the amount of its undistributed capital gain on a cumulative net basis.

(c) *Exemption from income taxes.* A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle, unless such trust, for such year, has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust).

(d) *Definitions*—(1) *Charitable remainder annuity trust.* For purposes of this section, a charitable remainder annuity trust is a trust—

(A) From which a sum certain (which is not less than 5 percent of the initial net fair market value of all property placed in trust) is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals,

(B) From which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

(C) Following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

(2) *Charitable remainder unitrust.* For purposes of this section, a charitable remainder unitrust is a trust—

(A) From which a fixed percentage (which is not less than 5 percent) of the net fair market value of its assets, valued annually, is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals.

(B) From which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

(C) Following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

(3) *Exception.* Notwithstanding the provisions of paragraphs (2)(A) and (B), the trust instrument may provide that the trustee shall pay the income beneficiary for any year—

(A) The amount of the trust income, if such amount is less than the amount required to be distributed under paragraph (2)(A), and

(B) Any amount of the trust income which is in excess of the amount required to be distributed under paragraph (2)(A), to the extent that (by reason of subparagraph (A)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(e) *Valuation for purposes of charitable contribution.* For purposes of determining the amount of any charitable contribution, the remainder interest of a charitable remainder annuity trust or charitable remainder unitrust shall be computed on the basis that an amount equal to 5 percent of the net fair market value of its assets (or a greater amount, if required under the terms of the trust instrument) is to be distributed each year.

[Sec. 664 as added by sec. 201(e) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 562)]

§ 1.664-1 Charitable remainder trusts.

(a) *In general*—(1) *Introduction*—(i) *General description of a charitable remainder trust.* Generally, a charitable remainder trust is a trust which provides for a specified distribution, at least annually, to one or more beneficiaries, at least one of which is not a charity, for life or for a term of years, with an irrevocable remainder interest to be held for the benefit of, or paid over to, charity. The specified distribution to be paid at least annually must be a sum certain which is not less than 5 percent of the initial net fair market value of all property placed in trust (in the case of a charitable remainder annuity trust) or a fixed percentage which is not less than 5 percent of the net fair market value of the trust assets, valued annually (in the case of a charitable remainder unitrust). A trust created after July 31, 1969, which is a charitable remainder trust is exempt from all of the taxes imposed by subtitle A of the Code for any taxable year of the trust except a taxable year in which it has unrelated business taxable income.

(ii) *Scope.* This section provides definitions, general rules governing the creation and administration of a charitable remainder trust, and rules governing the taxation of the trust and its beneficiaries. For the application of certain foundation rules to charitable remainder trusts, see paragraph (b) of this section. If the trust has unrelated business taxable income, see paragraph (c) of this section. For the treatment of distributions to recipients, see paragraph (d) of this section. For the treatment of distributions to charity, see paragraph (e) of this section. For the time limitations for amendment of governing instruments, see paragraph (f) of this section. For transitional rules under which particular requirements are inapplicable to certain trusts, see paragraph (g) of this section. Section 1.664-2 provides rules relating solely to a charitable remainder annuity trust. Section 1.664-3 provides rules relating solely to a charitable remainder unitrust. Section 1.664-4 provides rules governing the calculation of the fair market value of the remainder interest in a charitable remainder unitrust. For rules relating to the filing of returns for a charitable remainder trust, see paragraph (a)(6) of § 1.6012-3 and section 6034 and the regulations thereunder.

(ii) *Definitions.* As used in this section and §§ 1.664-2, 1.664-3, and 1.664-4:

(*a*) *Charitable remainder trust.* The term "charitable remainder trust" means a trust with respect to which a deduction is allowable under section 170, 2055, 2106, or 2522 and which meets the description of a charitable remainder annuity trust (as described in § 1.664-2) or a charitable remainder unitrust (as described in § 1.664-3).

(*b*) *Annuity amount.* The term "annuity amount" means the amount described in paragraph (a)(1) of § 1.664-2 which is payable, at least annually, to the beneficiary of a charitable remainder annuity trust.

(*c*) *Unitrust amount.* The term "unitrust amount" means the amount described in paragraph (a)(1) of § 1.664-3 which is payable, at least annually, to the beneficiary of a charitable remainder unitrust.

(d) *Recipient.* The term "recipient" means the beneficiary who receives the possession or beneficial enjoyment of the annuity amount or unitrust amount.

(e) *Governing instrument.* The term "governing instrument" has the same meaning as in section 508(e) and the regulations thereunder.

(2) *Requirement that the trust must be either a charitable remainder annuity trust or a charitable remainder unitrust.* A trust is a charitable remainder trust only if it is either a charitable remainder annuity trust in every respect or a charitable remainder unitrust in every respect. For example, a trust which provides for the payment each year to a noncharitable beneficiary of the greater of a sum certain or a fixed percentage of the annual value of the trust assets is not a charitable remainder trust inasmuch as the trust is neither a charitable remainder annuity trust (for the reason that the payment for the year may be a fixed percentage of the annual value of the trust assets which is not a "sum certain") nor a charitable remainder unitrust (for the reason that the payment for the year may be a sum certain which is not a "fixed percentage" of the annual value of the trust assets).

(3) *Restrictions on investments.* A trust is not a charitable remainder trust if the provisions of the trust include a provision which restricts the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets. In the case of transactions with, or for the benefit of, a disqualified person, see section 4941(d) and the regulations thereunder for rules relating to the definition of self-dealing.

(4) *Requirement that trust must meet definition of and function exclusively as a charitable remainder trust from its creation.* In order for a trust to be a charitable remainder trust, it must meet the definition of and function exclusively as a charitable remainder trust from the creation of the trust. Solely for the purposes of section 664 and the regulations thereunder, the trust will be deemed to be created at the earliest time that neither the grantor nor any other person is treated as the owner of the entire trust under subpart E, part 1, subchapter J, chapter 1, subtitle A of the Code (relating to grantors and others treated as substantial owners), but in no event prior to the time property is first transferred to the trust. For purposes of the preceding sentence, neither the grantor nor his spouse shall be treated as the owner of the trust under such subpart E merely because the grantor or his spouse is named as a recipient. See examples 1 through 3 of subparagraph (6) of this paragraph for illustrations of the foregoing rule.

(5) *Rules applicable to testamentary transfers*—(i) *Deferral of annuity or unitrust amount.* Notwithstanding subparagraph (4) of this paragraph and §§ 1.664–2 and 1.664–3, for purposes of sections 2055 and 2106 a charitable remainder trust shall be deemed created at the date of death of the decedent (even though the trust is not funded until the end of a reasonable period of administration or settlement) if the obligation to pay the annuity or unitrust amount with respect to the property passing in trust at the death of the decendent begins as of the date of death of the decedent, even though the requirement to pay such amount is deferred in accordance with the rules provided in this subparagraph. If permitted by applicable local law or authorized by the provisions of the governing instrument, the requirement to pay such amount may be deferred until the end of the taxable year of the trust in which occurs the complete funding of the trust. Within a reasonable period after such time, the trust must pay (in the case of an underpayment) or must receive from the recipient (in the case of an overpayment) the difference between—

(*a*) Any annuity or unitrust amounts actually paid, plus interest on such amounts computed at 6 percent a year, compounded annually, and

(*b*) The annuity or unitrust amounts payable, plus interest on such amounts computed at 6 percent a year, compounded annually.

The amounts payable shall be retroactively determined by using the taxable year, valuation method, and valuation dates which are ultimately adopted by the charitable remainder trust. See subdivision (ii) of this subparagraph for rules relating to retroactive determination of the amount payable under a charitable remainder unitrust. See paragraph (d)(4) of this section for rules relating to the year of inclusion in the case of an underpayment to a recipient and the allowance of a deduction in the case of an overpayment to a recipient.

(ii) For purposes of retroactively determining the amount under subdivision (i)(*b*) of this subparagraph, the governing instrument of a charitable remainder unitrust may provide that the amount described in subdivision (i)(*b*) of this subparagraph with respect to property passing in trust at the death of the decedent for the period which begins on the date of death of the decedent and ends on the earlier of the date of death of the last recipient or the end of the taxable year of the trust in which occurs the complete funding of the trust shall be computed by multiplying—

(*a*) The sum of (*1*) the value, on the earlier of the date of death of the last recipient or the last day in such taxable year, of the property held in trust which is attributable to property passing to the trust at the death of the decedent, (*2*) any distributions in respect of unitrust amounts made by the trust or estate before such date, and (*3*) interest on such distributions computed at 6 percent a year, compounded annually, from the date of distribution to such date by—

(*b*) A factor equal to 1.0 less the factor under the appropirate payout rate in column 2 of Table D in § 1.664–4(b)(5) opposite the number of years in column 1 between the date of death of the decedent and the date of the earlier of the death of the last recipient or the last day in such taxable year.

If the number of years between the date of death and the date of the earlier of the death of the last recipient or end of such taxable year is between periods for which factors are provided in Table D, a linear interpolation must be made.

(iii) *Treatment of distributions.* The treatment of a distribution to a charitable remainder trust, or to a recipient in respect of an annuity or unitrust amount, paid, credited, or required to be distributed by an estate, or by a trust which is not a charitable remainder trust, shall be governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664. In the case of a charitable remainder trust which is partially or fully funded during the period of administration of an estate or settlement of a trust (which is not a charitable remainder trust), the treatment of any amount paid, credited, or required to be distributed by the charitable remainder trust shall be governed by the rules of section 664.

(6) *Examples.* The application of the rules in subparagraphs (4) and (5) of this paragraph may be illustrated by the following examples:

Example (*1*). On September 19, 1971, H transfers property to a trust over which he retains an inter vivos power of revocation. The trust is to pay W 5 percent of the value of the trust assets, valued annually, for her life, remainder to charity. The trust would satisfy all of the requirements of section 664 if it were irrevocable. For purposes of section 664, the trust is not deemed created in 1971 because H is treated as the owner of the entire trust under subpart E. On May 26, 1975, H predeceases W at which time the trust becomes irrevocable. For purposes of section 664, the trust is deemed created on May 26, 1975, because that is the earliest date on which H is not treated as the owner of the entire trust under subpart E. The trust becomes a charitable remainder trust on May 26, 1975, because it meets the definition of a charitable remainder trust from its creation.

Example (*2*). The facts are the same as in example (1), except that H retains the inter vivos power to revoke only one-half of the trust. For purposes of section 664, the trust is deemed created on September 19, 1971, because on that date the grantor is not treated as the owner of the entire trust under subpart E. Consequently, a charitable deduction is not allowable either at the creation of the trust or at H's death because the trust does not meet the definition of a charitable remainder trust from the date of its creation. The trust does not meet the definition of a charitable remainder trust from the date of its creation because the trust is subject to a partial power to revoke on such date.

Example (*3*). The facts are the same as in example (1), except that the residue of H's estate is to be paid to the trust and the trust is required to pay H's debts. The trust is not a charitable remainder trust at H's death because it does not function exclusively as a charitable remainder trust from the date of its creation which, in this case, is the date it becomes irrevocable.

Example (*4*). (i) In 1971, H transfers property to Trust A over which he retains an inter vivos power of revocation. Trust A, which is not a charitable remainder trust, is to provide income or corpus to W until the death of H. Upon H's death the trust

is required by its governing instrument to pay the debts and administration expenses of H's estate, and then to terminate and distribute all of the remaining assets to a separate Trust B which meets the definition of a charitable remainder annuity trust.

(ii) Trust B will be charitable remainder trust from the date of its funding because it will function exclusively as a charitable remainder trust from its creation. For purposes of section 2055, Trust B will be deemed created at H's death if the obligation to pay the annuity amount begins on the date of H's death. For purposes of section 664, Trust B becomes a charitable remander trust as soon as it is partially or completely funded. Consequently, unless Trust B has unrelated business taxable income, the income of the trust is exempt from all taxes imposed by subtitle A of the Code, and any distributions by the trust, even before it is completely funded, are governed by the rules of section 664. Any distributions made by Trust A, including distributions to a recipient in respect of annuity amounts, are governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664.

Example (5). In 1973, H dies testate leaving the net residue of his estate (after payment by the estate of all debts and administration expenses) to a trust which meets the definition of a charitable remainder unitrust. For purposes of section 2055, the trust is deemed created at H's death if the requirement to pay the unitrust amount begins on H's death and is a charitable remainder trust even though the estate is obligated to pay debts and administration expenses.

For purposes of section 664, the trust becomes a charitable remainder trust as soon as it is partially or completely funded. Consequently, unless the trust has unrelated business taxable income, the income of the trust is exempt from all taxes imposed by subtitle A of the Code, and any distributions by the trust, even before it is completely funded, are governed by the rules of section 664. Any distributions made by H's estate, including distributions to a recipient in respect of unitrust amounts, are governed by the rules of subchapter J, chapter 1, subtitle A of the Code other than section 664.

Example (6). (i) On January 1, 1974, H dies testate leaving the residue of his estate to a charitable remainder unitrust. The governing instrument provides that, beginning at H's death, the trustee is to make annual payments to W, on December 31 of each year of 5 percent of the net fair market value of the trust assets, valued as of December 31 of each year, for W's life and to pay the remainder to charity at the death of W. The governing instrument also provides that the actual payment of the unitrust amount need not be made until the end of the taxable year of the trust in which occurs the complete funding of the trust. The governing instrument also provides that the amount payable with respect to the period between the date of death and the end of such taxable year shall be computed under the special method provided in subparagraph (5)(ii) of this paragraph. The governing instrument provides that, within a reasonable period after the end of the taxable year of the trust in which occurs the complete funding of the trust, the trustee shall pay (in the case of an underpayment) or shall receive from the recipient (in the case of an overpayment) the difference between the unitrust amounts paid (plus interest at 6 percentage compounded annually) and the amount computed under the special method. The trust is completely funded on September 20, 1976. No amounts were paid before June 30, 1977. The trust adopts a fiscal year of July 1 to June 30. The net fair market value of the trust assets on June 30, 1977, is $100,000.

(ii) Because no amounts were paid prior to the end of the taxable year in which the trust was completely funded, the amount payable at the end of such taxable year is equal to the net fair market value of the trust assets on the last day of such taxable year (June 30, 1977) multiplied by a factor equal to 1.0 minus the factor in Table D corresponding to the number of years in the period between the date of death and the end of such taxable year. The adjusted payout rate (determined under § 1.664-4(b)(2)) is 5 percent. Because the last day of the taxable year in which the trust is completely funded is June 30, 1977, there are $3^{181}/_{365}$ years in such period. Because there is no factor given in Table D for such a period, a linear interpolation must be made:

1.0 minus 0.814506 (factor at 5 percent for 4 years)	0.185494
1.0 minus 0.857375 (factor at 5 percent for 3 years)	.142625
Difference	.042869

$$\frac{181}{365} = \frac{X}{0.042869}$$

$$X = 0.021258$$

1.0 minus 0.857375 (factor at 5 percent for 3 years)	0.142625
Plus: X	.021258
Interpolated factor	.163883

Thus, the amount payable for the period from January 1, 1974, to June 30, 1977, is $16,388.30 ($100,000 × 0.163883). Thereafter, the trust assets must be valued on December 31 of each year and 5 percent of such value paid annually to W for her life.

(b) *Application of certain foundation rules to charitable remainder trusts.* See section 4947(a)(2) and section 4947(b)(3)(B) and the regulations thereunder for the application to charitable remainder trusts of certain provisions relating to private foundations. See section 508(e) for rules relating to required provisions in governing instruments prohibiting certain activities specified in section 4947(a)(2).

(c) *Taxation of nonexempt charitable remainder trusts.* If the charitable remainder trust has any unrelated business taxable income (within the meaning of section 512 and the regulations thereunder, determined as if part III, subchapter F, chapter 1, subtitle A of the Code applied to such trust) for any taxable year, the trust is subject to all of the taxes imposed by subtitle A of the Code for such taxable year. For taxable years beginning after December 31, 1969, unrelated business taxable income includes debt-financed income. The taxes imposed by subtitle A of the Code upon a nonexempt charitable remainder trust shall be computed under the rules prescribed by subparts A and C, part 1, subchapter J, chapter 1, subtitle A of the Code for trusts which may accumulate income or which distribute corpus. The provisions of subpart E, part 1 of such subchapter J are not applicable with respect to a nonexempt charitable remainder trust. The application of the above rules may be illustrated by the following example:

Example. In 1975, a charitable remainder trust which has a calendar year as its taxable year has $1,000 of ordinary income, including $100 of unrelated business taxable income, and no deductions other than under sections 642(b) and 661(a). The trust is required to pay out $700 for 1975 to a noncharitable recipient. Because the trust has some unrelated business taxable income in 1975, it is not exempt for such year. Consequently, the trust is taxable on all of its income as a complex trust. Under section 661(a) of the Code, the trust is allowed a deduction of $700. Under section 642(b) of the Code, the trust is allowed a deduction of $100. Consequently, the taxable income of the trust for 1975 is $200 ($1,000—$700—$100).

(d) *Treatment of annual distributions to recipients*—(1) *Character of distributions*—(i) *Order of distributions.* Annuity and unitrust amounts shall be treated as having the following characteristics in the hands of the recipients (whether or not the trust is exempt) without credit for any taxes which are imposed by subtitle A of the Code on the trust:

(*a*) *Ordinary income.* First, as ordinary income to the extent of the sum of the trust's ordinary income for the taxable year of the trust and its undistributed ordinary income for prior years. An ordinary loss for the current year shall be used to reduce undistributed ordinary income for prior years and any excess shall be carried forward indefinitely to reduce ordinary income for future years. For purposes of this section, the amount of current and prior years' income shall be computed without regard to the deduction for net operating losses provided by sections 172 or 642(d).

(*b*) *Capital gain.* Second, as capital gain to the extent of the trust's undistributed capital gains. Undistributed capital gains of the trust are determined on a cumulative net basis under the rules of this subdivision without regard to the provisions of section 1212.

(*1*) *Long- and short-term capital gains.* If, in any taxable year of the trust, the trust has both undistributed short-term capital gain and undistributed long-term capital gain, then the short-term capital gain shall be deemed distributed prior to any long-term capital gain.

(*2*) *Capital losses in excess of capital gains.* If the trust has for any taxable year capital losses in excess of capital gains, any excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss in the succeeding taxable year and any excess of the net long-term capital loss over the net short-term capital gain for such year shall be a long-term capital loss in the succeeding taxable year.

(*3*) *Capital gains in excess of capital losses.* If the trust has for any taxable year capital gains in excess of capital losses, any excess of the net short-term capital gain over the net long-term capital loss for such year shall be, to the extent not deemed distributed, a short-term capital gain in the succeeding taxable year and any excess of the net long-term capital gain over the net short-term capital loss for such year shall be, to the extent not deemed distributed, a long-term capital gain in the succeeding taxable year.

The application of the rules in this subdivision (*b*) may be illustrated by the following example:

Example. (i) The X Trust is a charitable remainder trust created on January 1, 1975, and has the calendar year as its taxable year. During the years indicated, it has the following capital transactions:

1975:	
Long-term capital loss	$10
Short-term capital gain	5
1976:	
Short-term capital gain	20
Short-term capital loss	5
1977:	
Long-term capital gain	15

Distributions for 1975 and 1976 were not in excess of current and accumulated ordinary income for those years. In 1977, distributions exceeded current and accumulated ordinary income by $5.

(ii) The treatment of the 1975 and 1976 transactions is as follows:

1975:	
Long-term capital loss recognized	$(10)
Short-term capital gain recognized	5
Net long-term capital loss carried forward to 1976	(5)
1976:	
Short-term capital gain recognized	20
Short-term capital loss recognized	(5)
Long-term capital loss carried forward from 1975	(5)
Net short-term capital gain carried forward to 1977	$10
1977:	
Long-term capital gain recognized	15
Net short-term capital gain carried forward from 1976	10

(iii) In 1977, the trust has long-term capital gain of $15 and short-term capital gain of $10. If the trust has both short-term capital gain and long-term capital gain for the same taxable year, the short-term capital gain is deemed distributed prior to the long-term capital gain. Therefore, the distribution of $5 in 1977 is deemed to be short-term capital gain. The undistributed net short-term capital gain of $5 is a short-term capital gain carried forward to 1978. The undistributed net long-term capital gain of $15 is a long-term capital gain carried forward to 1978.

(*c*) *Other income.* Third, as other income (including income excluded under part III, subchapter B, chapter 1, subtitle A of the Code) to the extent of the sum of the trust's other income for the taxable year and its undistributed other income for prior years. A loss in this category for the current year shall be used to reduce undistributed income in such category for prior years and any excess shall be carried forward indefinitely to reduce such income for future years.

(*d*) *Corpus.* Finally, as a distribution of trust corpus. For purposes of this section, the term "corpus" means the net fair market value of the trust assets less the total undistributed income (but not loss) in each of the above categories.

(ii) *Rules relating to character of distributions.* The determination of the character of amounts distributed shall be made as of the end of the taxable year of the trust. Amounts treated as paid from one of the categories of income described in (*a*), (*b*), or (*c*) of subdivision (i) of this subparagraph shall be treated as consisting of the same proportion of each class of items included in such category as the total of the current and accumulated income of each class of items bears to the total of the current and accumulated income for that category. A loss in one of such categories may not be used to reduce a gain in any other category. The provisions of subparts D and E, part 1, subchapter J, chapter 1, subtitle A of the Code are not applicable with respect to a charitable remainder trust (regardless of whether the trust is exempt).

(2) *Allocation of deductions.* Items of deduction of the trust for a taxable year of the trust which are deductible in determining taxable income (other than the deductions permitted by sections 642 (b), 642(c), 661, and 1202) which are directly attributable to one or more classes of items within a category of income or to corpus (determined under subparagraph (1)(i) of this paragraph) shall be allocated to such classes of items or to corpus. All other allowable deductions for such taxable year which are not directly attributable to one or more classes of items within a category of income or to corpus (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) shall be allocated among the classes of items within the category (excluding classes of items with net losses) on the basis of the gross income of such classes for such taxable year reduced by the deductions allocated thereto under the first sentence of this subparagraph, but in no event shall the amount of expenses allocated to any class of items exceed such income of such class for the taxable year. Items of deduction which are not allocable under the above two sentences (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) may be allocated in any manner. All taxes imposed by subtitle A of the Code for which the trust is liable because it has unrelated business taxable income and all taxes imposed by chapter 42 of the Code shall be allocated to corpus. Any expense which is not deductible in determining taxable income and which is not allocable to any class of items described in subparagraph (1)(i)(*c*) of this paragraph shall be allocated to corpus. The deductions allowable to a trust under sections 642(b), 642(c), 661, and 1202 are not allowed in determining the amount or character of any class of items within a category of income or corpus in the categories described in subparagraph (1) of this paragraph.

(3) *Allocation of income among recipients.* If there are two or more recipients, each will be treated as receiving his pro rata portion of the categories of income and corpus. The application of this rule may be illustrated by the following example:

Example. X transfers $40,000 to a charitable remainder annuity trust which is to pay $3,000 per year to X and $2,000 per year to Y for a term of 5 years. During the first taxable year the trust has $3,000 of ordinary income, $500 of capital gain, and $500 of tax-exempt income after allocation of all expenses. X is treated as receiving ordinary income of $1,800 ($3,000/$5,000×$3,000), capital gain of $300 ($3,000/$5,000×$500), tax exempt income of $300 ($3,000/$5,000×$500), and corpus of $600 ($3,000/$5,000×[$5,000–$4,000]). Y is treated as receiving ordinary income of $1,200 ($2,000/$5,000×$3,000), capital gain of $200 ($2,000/$5,000×$500), tax exempt income of $200 ($2,000/$5,000×$500), and corpus of $400 ($2,000/$5,000×[$5,000–$4,000]).

(4) *Year of inclusion*—(i) *General rule.* To the extent required by this paragraph, the annuity or unitrust amount is includible in the recipient's gross income for the taxable year in which the annuity or unitrust amount is required to be distributed even though the annuity or unitrust amount is not distributed until after the close of the taxable year of the trust. If a recipient has a different taxable year (as defined in section 441 or 442) from the taxable year of the trust, the amount he is required to include in gross income to the extent required by this paragraph shall be included in his taxable year in which or with which ends the taxable year of the trust in which such amount is required to be distributed.

(ii) *Payments resulting from incorrect valuations.* Notwithstanding subdivision (i) of this subparagraph, any payments which are made or required to be distributed by a charitable remainder trust pursuant to paragraph (a)(5) of this section, under paragraph (f)(3) of this section because of an amendment to the governing instrument, or under paragraphs (a)(1) of §§ 1.664–2 and 1.664–3 because of an incorrect valuation, shall, to the extent required by this paragraph, be included in the gross income of the recipient in his taxable year in which or with which ends the taxable year of the trust in which the amount is paid, credited, or required to be distributed. For rules relating to required adjustments of underpayments and overpayments of the annuity or unitrust amounst in respect of payments made prior to the amendment of a governing instrument, see paragraph (f)(3) of this section. There is allowable to a recipient a deduction from gross income for any amounts repaid to the trust because of an overpayment during the reasonable period of administration or settlement or until the trust is fully funded, because of an amendment, or because of an incorrect valuation, to the extent such amounts were included in his gross income. See section 1341 and the regulations thereunder for rules relating to the computation of tax where a taxpayer restores substantial amounts held under a claim of right.

(iii) *Rules applicable to year of recipient's death.* If the taxable year of the trust does not end with or within the last taxable year of the recipient because of the recipient's death, the extent to which the annuity or unitrust amount required to be distributed to him is included in the gross income of the recipient for his last taxable year, or in the gross income of his estate, is determined by making the computations required under this paragraph for the taxable year of the trust in which his last taxable year ends. (The last sentence of subdivision (i) of this

subparagraph does not apply to such amounts.) The gross income for the last taxable year of a recipient on the cash basis includes (to the extent required by this paragraph) amounts actually distributed to the recipient before his death. Amounts required to be distributed which are distributed to his estate, are included (to the extent required by this paragraph) in the gross income of the estate as income in respect of a decedent under section 691.

(5) *Distributions in kind.* The annuity or unitrust amount may be paid in cash or in other property. In the case of a distribution made in other property, the amount paid, credited, or required to be distributed shall be considered as an amount realized by the trust from the sale or other disposition of property. The basis of the property in the hands of the recipient is its fair market value at the time it was paid, credited, or required to be distributed. The application of these rules may be illustrated by the following example:

Example. On January 1, 1971, X creates a charitable remainder annuity trust, whose taxable year is the calendar year, under which X is to receive $5,000 per year. During 1971, the trust receives $500 of ordinary income. On December 31, 1971, the trust distributed cash of $500 and a capital asset of the trust having a fair market value of $4,500 and a basis of $2,200. The trust is deemed to have realized a capital gain of $2,300. X treats the distribution of $5,000 as being ordinary income of $500, capital gain of $2,300 and trust corpus of $2,200. The basis of the distributed property is $4,500 in the hands of X.

(e) *Other distributions*—(1) *Character of distributions.* An amount distributed by the trust to an organization described in section 170(c) other than the annuity or unitrust amount shall be considered as a distribution of corpus and of those categories of income specified in paragraph (d)(1) of this section in an order inverse to that prescribed in such paragraph. The character of such amount shall be determined as of the end of the taxable year of the trust in which the distribution is made after the character of the annuity or unitrust amount has been determined.

(2) *Distributions in kind.* In the case of a distribution of an amount to which subparagraph (1) of this paragraph applies, no gain or loss is realized by the trust by reason of a distribution in kind unless such distribution is in satisfaction of a right to receive a distribution of a specific dollar amount or in specific property other than that distributed.

(f) *Effective date*—(1) *General rule.* The provisions of this section are effective with respect to transfers in trust made after July 31, 1969. Any trust created (within the meaning of applicable local law) prior to August 1, 1969, is not a charitable remainder trust even if it otherwise satisfies the definition of a charitable remainder trust.

(2) *Transfers to pre-1970 trusts.* Property transferred to a trust created (within the meaning of applicable local law) before August 1, 1969, whose governing instrument provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust, shall, for purposes of subparagraphs (1) and (3) of this paragraph, be deemed transferred to a trust created on the date of such transfer provided that the transfer occurs after July 31, 1969, and prior to October 18, 1971, and the transferred property and any undistributed income therefrom is severed and placed in a separate trust before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings begun before December 31, 1972, which are required to sever such property, become final.

(3) *Amendment of post-1969 trusts.* A trust created (within the meaning of applicable local law) subsequent to July 31, 1969, and prior to December 31, 1972, which is not a charitable remainder trust at the date of its creation, may be treated as a charitable remainder trust from the date it would be deemed created under § 1.664–1(a) (4) and (5) (i) for all purposes: *Provided,* That all the following requirements are met:

(i) At the time of the creation of the trust, the governing instrument provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust.

(ii) The governing instrument of the trust is amended so that the trust will meet the definition of a charitable remainder trust and, if applicable, will meet the requirement of paragraph (a)(5)(i) of this section that obligation to make payment of the annuity or unitrust amount with respect to property passing at death begin as of the date of death, before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings which are begun before December 31, 1972, and which are required to amend its governing instrument, become final. In the case of a trust created (within the meaning of applicable local law) subsequent to July 31, 1969, and prior to December 31, 1972, the provisions of section 508(d)(2)(A) shall not apply if the governing instrument of the trust is amended so as to comply with the requirements of section 508(e) before December 31, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings which are begun before December 31, 1972, and which are required to amend its governing instrument, become final. Notwithstanding the provisions of paragraphs (a)(3) and (a)(4) of §§ 1.664–2 and 1.664–3, the governing instrument may grant to the trustee a power to amend the governing instrument for the sole purpose of complying with the requirements of this section and § 1.664–2 or § 1.664–3: *Provided,* That at the creation of the trust, the governing instrument (*a*) provides for the payment of a unitrust amount described in § 1.664–3(a)(1)(i) or an annuity which meets the requirements of paragraph (a)(2) of § 1.664–2 or § 1.664–3, (*b*) designates the recipients of the trust and the period for which the amount described in (*a*) of this subdivision (ii) is to be paid, and (*c*) provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust. The mere granting of such a power is not sufficient to meet the requirements of this subparagraph that the governing instrument be amended in the manner and within the time limitations of this subparagraph.

(iii) (*a*) Where the amount of the distributions which would have been made by the trust to a recipient if the amended provisions of such trust had been in effect from the time of creation of such trust exceeds the amount of the distributions made by the trust prior to its amendment, the trust pays an amount equal to such excess to the recipient.

(*b*) Where the amount of distributions made to the recipient prior to the amendment of the trust exceeds the amount of the distributions which would have been made by such trust if the amended provisions of such trust had been in effect from the time of creation of such trust, such excess is repaid to the trust by the recipient.

See paragraph (d)(4) of this section for rules relating to the year of inclusion in the case of an underpayment to a recipient and the allowance of a deduction in the case of an overpayment to a recipient. A deduction for a transfer to a charitable remainder trust shall not be allowed until the requirements of this paragraph are met and then only if the deduction is claimed on a timely filed return (including extensions) or on a claim for refund filed within the period of limitations prescribed by section 6511(a).

(g) *Transitional effective date.* Notwithstanding any other provision of this section, § 1.664–2 or § 1.664–3, the requirement of paragraph (a)(5)(i) of this section that interest accrue on overpayments and underpayments, the requirement of paragraph (a)(5)(ii) of this section that the unitrust amount accruing under the formula provided therein cease with the death of the last recipient, and the requirement that the governing instrument of the trust contain the provisions specified in paragraph (a)(1)(iv) of § 1.664–2 (relating to computation of the annuity amount in certain circumstances), paragraph (a)(1)(v) of § 1.664–3 (relating to computation of the unitrust amount in certain circumstances), paragraphs (b) of §§ 1.664–2 and 1.664–3 (relating to additional contributions), and paragraph (a)(1)(iii) of § 1.664–3 (relating to incorrect valuations), paragraphs (a)(6)(iv) of §§ 1.664–2 and 1.664–3 (relating to alternative remaindermen) shall not apply to:

(1) A will executed on or before December 31, 1972, if:

(i) The testator dies before December 31, 1975, without having republished the will after December 31, 1972, by codicil or otherwise,

(ii) The testator at no time after December 31, 1972, had the right to change the provisions of the will which pertain to the trust, or

(iii) The will is not republished by codicil or otherwise before December 31, 1975, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise, or

(2) A trust executed on or before December 31, 1972, if:

(i) The testator dies before December 31, 1975, without having amended the trust after December 31, 1972,

(ii) The trust is irrevocable on December 31, 1972, or

(iii) The trust is not amended before December 31, 1975, and the grantor is on such date and at all times thereafter under a mental disability to change the terms of the trust.

§ 1.664–2 Charitable remainder annuity trust.

(a) *Description.* A charitable remainder annuity trust is a trust which complies with the applicable provisions of § 1.664–1 and meets all of the following requirements:

(1) *Required payment of annuity amount*—(i) *Payment of sum certain at least annually.* The governing instrument provides that the trust shall pay a sum certain not less often than annually to a person or persons described in subparagraph (3) of this paragraph for each taxable year of the period specified in subparagraph (5) of this paragraph. The trust will not be deemed to have engaged in an act of self-dealing (within the meaning of section 4941), to have unrelated debt-financed income (within the meaning of section 514), to have received an additional contribution (within the meaning of § 1.664–2(b)), or to have failed to function exclusively as a charitable remainder trust (within the meaning of § 1.664–1(a)(4)) merely because payment of the annuity amount is made after the close of the taxable year: *Provided,* That such payment is made within a reasonable time after the close of such taxable year. For purposes of the preceding sentence, a reasonable time will not ordinarily extend beyond the date by which the trustee is required to file Form 1041–B (including extensions) for such year.

(ii) *Definition of sum certain.* A sum certain is a stated dollar amount which is the same either as to each recipient or as to the total amount payable for each year of such period. For example, a provision for an amount which is the same every year to A until his death and concurrently an amount which is the same every year to B until his death, with the amount to each recipient to terminate at his death, would satisfy the above rule. Similarly, provisions for an amount to A and B for their joint lives and then to the survivor would satisfy the above rule. In the case of a distribution to an organization described in section 170(c) at the death of a recipient or the expiration of a term of years, the governing instrument may provide for a reduction of the stated amount payable after such a distribution: *Provided,* That:

(*a*) The reduced amount payable is the same either as to each recipient or as to the total amount payable for each year of the balance of such period, and

(*b*) The requirements of subparagraph (2)(ii) of this paragraph are met.

(iii) *Sum certain stated as a fraction or percentage.* The stated dollar amount may be expressed as a fraction or a percentage of the initial net fair market value of the property irrevocably passing in trust as finally determined for Federal tax purposes. If the stated dollar amount is so expressed and such market value is incorrectly determined by the fiduciary, the requirement of this subparagraph will be satisfied if the governing instrument provides that in such event the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have paid the recipient if the correct value were used and the amount which the trust actually paid the recipient. Such payments or repayments must be made within a reasonable period after the final determination of such value. Any payment due to a recipient by reason of such incorrect valuation shall be considered to be a payment required to be distributed at the time of such final determination for purposes of paragraph (d)(4)(ii) of § 1.664–1. See paragraph (d)(4) of § 1.664–1 for rules relating to the year of inclusion of such payments and the allowance of a deduction for such repayments. See paragraph (b) of this section for rules relating to future contributions. For rules relating to required adjustments for underpayments or overpayments of the amount described in this paragraph in respect of payments made during a reasonable period of administration, see paragraph (a)(5) of § 1.664–1. The application of the rule permitting the stated dollar amount to be expressed as a fraction or a percentage of the initial net fair market value of the property irrevocably passing in trust as finally determined for Federal tax purposes may be illustrated by the following example:

Example. The will of X provides for the transfer of one-half of his residuary estate to a charitable remainder annuity trust which is required to pay to W for life an annuity equal to 5 percent of the initial net fair market value of the interest passing in trust as finally determined for Federal tax purposes. The annuity is to be paid on December 31 of each year computed from the date of X's death. The will also provides that if such initial net fair market value is incorrectly determined, the trust shall pay to W, in the case of an undervaluation, or be repaid by W, in the case of an overvaluation, an amount equal to the difference between the amount which the trust should have paid if the correct value were used and the amount which the trust actually paid. X dies on March 1, 1971. The executor files an estate tax return showing the value of the residuary estate as $250,000 before reduction for taxes and expenses of $50,000. The executor paid to W $4,192 ([$250,000−$50,000]×½×5 percent×306/365) on December 31, 1971. On January 1, 1972, the executor transfers one-half of the residue of the estate to the trust. The trust adopts the calendar year as its taxable year. The value of the residuary estate is finally determined for Federal tax purposes to be $240,000 ($290,000−$50,000). Accordingly, the amount which the executor should have paid to W is $5,030 ([$290,000−$50,000]×½×5 percent×306/365). Consequently, an additional amount of $838 ($5,030−$4,192) must be paid to W within a reasonable period after the final determination of value for Federal tax purposes.

(iv) *Computation of annuity amount in certain circumstances*—(*a*) *Short taxable years.* The governing instrument provides that, in the case of a taxable year which is for a period of less than 12 months other than the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph, the annuity amount determined under subdivision (i) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the taxable year of the trust and the denominator of which is 365 (366 if February 29 is a day included in the numerator).

(*b*) *Last taxable year of period.* The governing instrument provides that, in the case of the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph, the annuity amount which must be distributed under subdivision (i) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the last day of the period specified in subparagraph (5) of this paragraph and the denominator of which is 365 (366 if February 29 is a day included in the numerator). See subparagraph (5) of this paragraph for a special rule allowing termination of payment of the annuity amount with the regular payment next preceding the termination of the period specified therein.

(2) *Minimum annuity amount*—(i) *General rule.* The total amount payable under subparagraph (1) of this paragraph is not less than 5 percent of the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes.

(ii) *Reduction of annuity amount in certain cases.* A trust will not fail to meet the requirements of this subparagraph by reason of the fact that it provides for a reduction of the stated amount payable upon the death of a recipient or the expiration of a term of years provided that:

(*a*) A distribution is made to an organization described in section 170(c) at the death of such recipient or the expiration of such term of years, and

(*b*) The total amounts payable each year under subparagraph (1) of this paragraph after such distribution are not less than a stated dollar amount which bears the same ratio to 5 percent of the initial net fair market value of the trust assets as the net fair market value of the trust assets immediately after such distribution bears to the net fair market value of the trust assets immediately before such distribution.

(iii) *Rule applicable to inter vivos trust which does not provide for payment of minimum annuity amount.* In the case

where the grantor of an inter vivos trust underestimates in good faith the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes and specifies a fixed dollar amount for the annuity which is less than 5 percent of the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes, the trust will be deemed to have met the 5 percent requirement if the grantor or his representative consents, by appropriate agreement with the District Director, to accept an amount equal to 20 times the annuity as the fair market value of the property placed in trust for purposes of determining the appropriate charitable contributions deduction.

(3) *Permissible recipients*—(i) *General rule.* The amount described in subparagraph (1) of this paragraph is payable to or for the use of a named person or persons, at least one of which is not an organization described in section 170(c). If the amount described in subparagraph (1) of this paragraph is to be paid to an individual or individuals, all such individuals must be living at the time of the creation of the trust. A named person or persons may include members of a named class provided that, in the case of a class which includes any individual, all such individuals must be alive and ascertainable at the time of the creation of the trust unless the period for which the annuity amount is to be paid to such class consists solely of a term of years. For example, in the case of a testamentary trust, the testator's will may provide that an amount shall be paid to his children living at his death.

(ii) *Power to alter amount paid to recipients.* A trust is not a charitable remainder annuity trust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E, Part 1, subchapter J, chapter 1, subtitle A of the Code were applicable to such trust. See paragraph (a)(4) of this section for a rule permitting the retention by a grantor of a testamentary power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). For example, the governing instrument may not grant the trustee the power to allocate the annuity among members of a class unless such power falls within one of the exceptions to section 674(a).

(4) *Other payments.* No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170(c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). Notwithstanding the preceding sentence, the grantor may retain the power exercisable only by will to revoke or terminate the interest of any recipient other than an organization described in section 170(c). The governing instrument may provide that any amount other than the amount described in subparagraph (1) of this paragraph shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c) provided that in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. For example, the governing instrument may provide that a portion of the trust assets may be distributed currently, or upon the death of one or more recipients, to an organization described in section 170(c).

(5) *Period of payment of annuity amount*—(i) *General rules.* The period for which an amount described in subparagraph (1) of this paragraph is payable begins with the first year of the charitable remainder trust and continues either for the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life of an individual. If an individual receives an amount for life, it must be solely for his life. Payment of the amount described in subparagraph (1) of this paragraph may terminate with the regular payment next preceding the termination of the period described in this subparagraph. The fact that the recipient may not receive such last payment shall not be taken into account for purposes of determining the present value of the remainder interest. In the case of an amount payable for a term of years, the length of the term of years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient or by the grantor's exercise by will of a retained power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). In any event, the period may not extend beyond either the life or lives of a named individual or individuals or a term of years not to exceed 20 years. For example, the governing instrument may not provide for the payment of an annuity amount to A for his life and then to B for a term of years because it is possible for the period to last longer than either the lives of recipients in being at the creation of the trust or a term of years not to exceed 20 years. On the other hand, the governing instrument may provide for the payment of an annuity amount to A for his life and then to B for his life or a term of years (not to exceed 20 years), whichever is shorter (but not longer), if both A and B are in being at the creation of the trust because it is not possible for the period to last longer than the lives of recipients in being at the creation of the trust.

(ii) *Relationship to 5 percent requirement.* The 5 percent requirement provided in subparagraph (2) of this paragraph must be met until the termination of all of the payments described in subparagraph (1) of this paragraph. For example, the following provisions would satisfy the above rules:

(*a*) An amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A and B for their joint lives and then to the survivor for his life;

(*b*) An amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A for life or for a term of years not longer than 20 years, whichever is longer (or shorter);

(*c*) An amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A for a term of years not longer than 20 years and then to B for life (provided B was living at the date of creation of the trust);

(*d*) An amount to A for his life and concurrently an amount to B for his life (the amount to each recipient to terminate at his death) if the amount given to each individual is not less than 5 percent of the initial net fair market value of the property placed in trust; or

(*e*) An amount to A for his life and concurrently an equal amount to B for his life, and at the death of the first to die, the trust to distribute one-half of the then value of its assets to an organization described in section 170(c), if the total of the amounts given to A and B is not less than 5 percent of the initial net fair market value of the property placed in trust.

(6) *Permissible remaindermen*—(i) *General rule.* At the end of the period specified in subparagraph (5) of this paragraph the entire corpus of the trust is required to be irrevocably transferred, in whole or in part, to or for the use of one or more organizations described in section 170(c) or retained, in whole or in part, for such use.

(ii) *Treatment of trust.* If all of the trust corpus is to be retained for such use, the taxable year of the trust shall terminate at the end of the period specified in subparagraph (5) of this paragraph and the trust shall cease to be treated as a charitable remainder trust for all purposes. If all or any portion of the trust corpus is to be transferred to or for the use of such organization or organizations, the trustee shall have a reasonable time after the period specified in subparagraph (5) of this paragraph to complete the settlement of the trust. During such time, the trust shall continue to be treated as a charitable remainder trust for all purposes, such as sections 664, 4947(a)(2), and 4947(b)(3)(B). Upon the expiration of such period, the taxable year of the trust shall terminate and the trust shall cease to be treated as a charitable remainder trust for all purposes. If the trust continues in existence, it will be subject to the provisions of section 4947(a)(1) unless the trust is exempt from taxation under section 501(a). For purposes of determining whether the trust is exempt under section 501(a) as an organization described

in section 501(c)(3), the trust shall be deemed to have been created at the time it ceases to be treated as a charitable remainder trust.

(iii) *Concurrent or successive remaindermen.* Where interests in the corpus of the trust are given to more than one organization described in section 170(c) such interests may be enjoyed by them either concurrently or successively.

(iv) *Alternative remaindermen.* The governing instrument shall provide that if an organization to or for the use of which the trust corpus is to be transferred or for the use of which the trust corpus is to be retained is not an organization described in section 170(c) at the time any amount is to be irrevocably transferred to or for the use of such organization, such amount shall be transferred to or for the use of one or more alternative organizations which are described in section 170(c) at such time or retained for such use. Such alternative organization or organizations may be selected in any manner provided by the terms of the governing instrument.

(b) *Additional contributions.* A trust is not a charitable remainder annuity trust unless its governing instrument provides that no additional contributions may be made to the charitable remainder annuity trust after the initial contribution. For purposes of this section, all property passing to a charitable remainder annuity trust by reason of death of the grantor shall be considered one contribution.

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder annuity trust.* For purposes of sections 170, 2055, 2106, and 2522, the fair market value of the remainder interest of a charitable remainder annuity trust (as described in this section) is the net fair market value (as of the appropriate valuation date) of the property placed in trust less the present value of the annuity. For purposes of this section, the term "appropriate valuation date" means the date on which the property is transferred to the trust by the donor except that, for purposes of section 2055 or 2106, it means the date of death unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder in which event it means the alternate valuation date. The present value of an annuity is computed under § 20.2031–10 of the Estate Tax Regulations regardless of when the trust was created.

(d) *Deduction for transfers to a charitable remainder annuity trust.* For rules relating to a deduction for transfers to a charitable remainder annuity trust, see sections 170, 2055, 2106, or 2522 and the regulations thereunder. Any claim for deduction on any return for the value of a remainder interest in a charitable remainder annuity trust must be supported by a full statement attached to the return showing the computation of the present value of such interest. The deduction allowed by section 170 is limited to the fair market value of the remainder interest of a charitable remainder annuity trust regardless of whether an organization described in section 170(c) also receives a portion of the annuity. For a special rule relating to the reduction of the amount of a charitable contribution deduction with respect to a contribution of certain ordinary income property or capital gain property, see sections 170(e)(1)(A) or 170(e)(1)(B)(i) and the regulations thereunder. For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and the regulations thereunder.

§ 1.664–3 Charitable remainder unitrust.

(a) *Description.* A charitable remainder unitrust is a trust which complies with the applicable provisions of § 1.664–1 and meets all of the following requirements:

(1) *Required payment of unitrust amount*—(i) *Payment of fixed percentage at least annually*—(a) *General rule.* The governing instrument provides that the trust shall pay not less often than annually a fixed percentage of the net fair market value of the trust assets determined annually to a person or persons described in subparagraph (3) of this paragraph for each taxable year of the period specified in subparagraph (5) of this paragraph. The trust will not be deemed to have engaged in an act of self-dealing (within the meaning of section 4941), to have unrelated debt-financed income (within the meaning of section 514), to have received an additional contribution (within the meaning of § 1.664–3(b)), or to have failed to function exclusively as a charitable remainder trust (within the meaning of § 1.664–1(a)(4)) merely because payment of the unitrust amount is made after the close of the taxable year: *Provided,* That such payment is made within a reasonable time after the close of such taxable year. For purposes of the preceding sentence, a reasonable time will not ordinarily extend beyond the date by which the trustee is required to file Form 1041–B (including extensions) for such year.

(b) *Income exception.* Instead of the amount described in (a) of this subdivision (i), the governing instrument may provide that the trust shall pay for any year either the amount described in (1) or the total of the amounts described in (1) and (2) of this subdivision (b).

(1) The amount of trust income (as defined in section 643(b) and the regulations thereunder), for a taxable year to the extent that such amount is not more than the amount required to be distributed under (a) of this subdivision (i).

(2) An amount of trust income for a taxable year which is in excess of the amount required to be distributed under (a) of this subdivision (i) for such year, to the extent that (by reason of (1)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(ii) *Definition of fixed percentage.* The fixed percentage may be expressed either as a fraction or as a percentage and must be payable each year in the period specified in subparagraph (5) of this paragraph. A percentage is fixed if the percentage is the same either as to each recipient or as to the total percentage payable each year of such period. For example, provision for a fixed percentage which is the same every year to A until his death and concurrently a fixed percentage which is the same every year to B until his death, the fixed percentage to each recipient to terminate at his death, would satisfy the rule. Similarly, provision for a fixed percentage to A and B for their joint lives and then to the survivor would satisfy the rule. In the case of a distribution to an organization described in section 170(c) at the death of a recipient or the expiration of a term of years, the governing instrument may provide for a reduction of the fixed percentage payable after such distribution provided that:

(a) The reduced fixed percentage is the same either as to each recipient or as to the total amount payable for each year of the balance of such period, and

(b) The requirements of subparagraph (2)(ii) of this paragraph are met.

(iii) *Rules applicable to incorrect valuations.* The governing instrument provides that in the case where the net fair market value of the trust assets is incorrectly determined by the fiduciary, the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have paid the recipient if the correct value were used and the amount which the trust actually paid the recipient. Such payments or repayments must be made within a reasonable period after the final determination of such value. Any payment due to a recipient by reason of such incorrect valuation shall be considered to be a payment required to be distributed at the time of such final determination for purposes of paragraph (d)(4)(ii) of § 1.664–1. See paragraph (d)(4) of § 1.664–1 for rules relating to the year of inclusion of such payments and the allowance of a deduction for such repayments. See paragraph (b) of this section for rules relating to additional contributions.

(iv) *Rules applicable to valuation.* In computing the net fair market value of the trust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust. The net fair market value of the trust assets may be determined on any one date during the taxable year of the trust, or by taking the average of valuations made on more than one date during the taxable year of the trust, so long as the same valuation date or dates and valuation methods are used each year. If the governing instrument does not specify the valuation date or dates, the trustee shall select such

date or dates and shall indicate his selection on the first return on Form 1041-B which the trust is required to file. The amount described in subdivision (i) (*a*) of this subparagraph which must be paid each year must be based upon the valuation for such year.

(v) *Computation of unitrust amount in certain circumstances*—(*a*) *Short taxable years.* The governing instrument provides that, in the case of a taxable year which is for a period of less than 12 months other than the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph:

(*1*) The amount determined under subdivision (i) (*a*) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the taxable year of the trust and the denominator of which is 365 (366 if February 29 is a day included in the numerator),

(*2*) The amount determined under subdivision (i) (*b*) of this subparagraph shall be computed by using the amount determined under subdivision (*a*) (*1*) of this subdivision (v), and

(*3*) If no valuation date occurs before the end of the taxable year of the trust, the trust assets shall be valued as of the last day of the taxable year of the trust.

(*b*) *Last taxable year of period.* (*1*) The governing instrument provides that, in the case of the taxable year in which occurs the end of the period specified in subparagraph (5) of this paragraph:

(*i*) The unitrust amount which must be distributed under subdivision (i) (*a*) of this subparagraph shall be the amount otherwise determined under that subdivision multiplied by a fraction the numerator of which is the number of days in the period beginning on the first day of such taxable year and ending on the last day of the period specified in subparagraph (5) of this paragraph and the denominator of which is 365 (366 if February 29 is a day included in the numerator),

(*ii*) The amount determined under subdivision (i) (*b*) of this subparagraph shall be computed by using the amount determined under (*b*) (*1*) (*i*) of this subdivision (v), and

(*iii*) If no valuation date occurs before the end of such period, the trust assets shall be valued as of the last day of such period.

(2) See subparagraph (5) of this paragraph for a special rule allowing termination of payment of the unitrust amount with the regular payment next preceding the termination of the period specified therein.

(2) *Minimum unitrust amount*—(i) *General rule.* The fixed percentage described in subparagraph (1) (i) of this paragraph with respect to all beneficiaries taken together is not less than 5 percent.

(ii) *Reduction of unitrust amount in certain cases.* A trust will not fail to meet the requirements of this subparagraph by reason of the fact that it provides for a reduction of the fixed percentage payable upon the death of a recipient or the expiration of a term of years provided that:

(*a*) A distribution is made to an organization described in section 170(c) at the death of such recipient or the expiration of such term of years, and

(*b*) The total of the percentage payable under subparagraph (1) of this paragraph after such distribution is not less than 5 percent.

(3) *Permissible recipients*—(i) *General rule.* The amount described in subparagraph (1) of this paragraph is payable to or for the use of a named person or persons, at least one of which is not an organization described in section 170(c). If the amount described in subparagraph (1) of this paragraph is to be paid to an individual or individuals, all such individuals must be living at the time of creation of the trust. A named person or persons may include members of a named class except in the case of a class which includes any individual, all such individuals must be alive and ascertainable at the time of the creation of the trust unless the period for which the unitrust amount is to be paid to such class consists solely of a term of years. For example, in the case of a testamentary trust, the testator's will may provide that the required amount shall be paid to his children living at his death.

(ii) *Power to alter amount paid to recipients.* A trust is not a charitable remainder unitrust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E, part 1, subchapter J, chapter 1, subtitle A of the Code were applicable to such trust. See paragraph (a)(4) of this section for a rule permitting the retention by a grantor of a testamentary power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). For example, the governing instrument may not grant the trustee the power to allocate the fixed percentage among members of a class unless such power falls within one of the exceptions to section 674(a).

(4) *Other payments.* No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170 (c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). Notwithstanding the preceding sentence, the grantor may retain the power exercisable only by will to revoke or terminate the interest of any recipient other than an organization described in section 170(c). The governing instrument may provide that any amount other than the amount described in subparagraph (1) of this paragraph shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c) provided that, in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. For example, the governing instrument may provide that a portion of the trust assets may be distributed currently, or upon the death of one or more recipients, to an organization described in section 170(c).

(5) *Period of payment of unitrust amount*—(i) *General rules.* The period for which an amount described in subparagraph (1) of this paragraph is payable begins with the first year of the charitable remainder trust and continues either for the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life of an individual. If an individual receives an amount for life, it must be solely for his life. Payment of the amount described in subparagraph (1) of this paragraph may terminate with the regular payment next preceding the termination of the period described in this subparagraph. The fact that the recipient may not receive such last payment shall not be taken into account for purposes of determining the present value of the remainder interest. In the case of an amount payable for a term of years, the length of the term of years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient or by the grantor's exercise by will of a retained power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). In any event, the period may not extend beyond either the life or lives of a named individual or individuals or a term of years not to exceed 20 years. For example, the governing instrument may not provide for the payment of a unitrust amount to A for his life and then to B for a term of years because it is possible for the period to last longer than either the lives of recipients in being at the creation of the trust or a term of years not to exceed 20 years. On the other hand, the governing instrument may provide for the payment of a unitrust amount to A for his life and then to B for his life or a term of years (not to exceed 20 years), whichever is shorter (but not longer), if both A and B are in being at the creation of the trust because it is not possible for the period to last longer than the lives of recipients in being at the creation of the trust.

(ii) *Relationship to 5 percent requirement.* The 5 percent requirement provided in subparagraph (2) of this paragraph must be met until the termination of all of the payments described in subparagraph (1) of this pararaph. For example, the following provisions would satisfy the above rules:

(*a*) A fixed percentage of at least 5 percent to A and B for their joint lives and then to the survivor for his life;

(*b*) A fixed percentage of at least 5 percent to A for life or for a term of years not longer than 20 years, whichever is longer (or shorter);

(*c*) A fixed percentage of at least 5 percent to A for a term of years not longer than 20 years and then to B for life (provided B was living at the creation of the trust);

(*d*) A fixed percentage to A for his life and concurrently a fixed percentage to B for his life (the percentage to each recipient to terminate at his death) if the percentage given to each individual is not less than 5 percent;

(*e*) A fixed percentage to A for his life and concurrently an equal percentage to B for his life, and at the death of the first to die, the trust to distribute one-half of the then value of its assets to an organization described in section 170(c) if the total of the percentages is not less than 5 percent for the entire period described in this subparagraph.

(6) *Permissible remaindermen*—(i) *General rule.* At the end of the period specified in subparagraph (5) of this paragraph, the entire corpus of the trust is required to be irrevocably transferred, in whole or in part, to or for the use of one or more organizations described in section 170(c) or retained, in whole or in part, for such use.

(ii) *Treatment of trust.* If all of the trust corpus is to be retained for such use, the taxable year of the trust shall terminate at the end of the period specified in subparagraph (5) of this paragraph and the trust shall cease to be treated as a charitable remainder trust for all purposes. If all or any portion of the trust corpus is to be transferred to or for the use of such organization or organizations, the trustee shall have a reasonable time after the period specified in subparagraph (5) of this paragraph to complete the settlement of the trust. During such time, the trust shall continue to be treated as a charitable remainder trust for all purposes, such as section 664, 4947(a)(2), and 4947(b)(3)(B). Upon the expiration of such period, the taxable year of the trust shall terminate and the trust shall cease to be treated as a charitable remainder trust for all purposes. If the trust continues in existence, it will be subject to the provisions of section 4947(a)(1) unless the trust is exempt from taxation under section 501(a). For purposes of determining whether the trust is exempt under section 501(a) as an organization described in section 501(c)(3), the trust shall be deemed to have been created at the time it ceases to be treated as a charitable remainder trust.

(iii) *Concurrent or successive remaindermen.* Where interests in the corpus of the trust are given to more than one organization described in section 170(c) such interests may be enjoyed by them either concurrently or successively.

(iv) *Alternative remaindermen.* The governing instrument shall provide that if an organization to or for the use of which the trust corpus is to be transferred or for the use of which the trust corpus is to be retained is not an organization described in section 170(c) at the time any amount is to be irrevocably transferred to or for the use of such organization, such amount shall be transferred to or for the use of or retained for the use of one or more alternative organizations which are described in section 170(c) at such time. Such alternative organization or organizations may be selected in any manner provided by the terms of the governing instrument.

(*b*) *Additional contributions.* A trust is not a charitable remainder unitrust unless its governing instrument either prohibits additional contributions to the trust after the initial contribution or provides that for the taxable year of the trust in which the additional contribution is made:

(1) Where no valuation date occurs after the time of the contribution and during the taxable year in which the contribution is made, the additional property shall be valued as of the time of contribution; and

(2) The amount described in paragraph (a)(1)(i)(*a*) of this section shall be computed by multiplying the fixed percentage by the sum of (i) the net fair market value of the trust assets (excluding the value of the additional property and any earned income from and any appreciation on such property after its contribution), and (ii) that proportion of the value of the additional property (that was excluded under subdivision (i) of this paragraph), which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of such taxable year or the last day of the period described in paragraph (a)(5) of this section bears to the number of days in the period which begins with the first day of such taxable year and ends with the earlier of the last day of such taxable year or the last day of the period described in paragraph (a)(5) of this section.

For purposes of this section, all property passing to a charitable remainder unitrust by reason of death of the grantor shall be considered one contribution. The application of the preceding rules may be illustrated by the following examples:

Example (*1*). On March 2, 1971, X makes an additional contribution of property to a charitable remainder unitrust. The taxable year of the trust is the calendar year and the regular valuation date is January 1 of each year. For purposes of computing the required payout with respect to the additional contribution for the year of contribution, the additional contribution is valued on March 2, 1971, the time of contribution. The property had a value on that date of $5,000. Income from such property in the amount of $250 was received on December 31, 1971. The required payout with respect to the additional contribution for the year of contribution is $208 (5 percent × $5,000 × 305/365). The income earned after the date of the contribution and after the regular valuation date does not enter into the computation.

Example (*2*). On July 1, 1971, X makes an additional contribution of $10,000 to a charitable remainder unitrust. The taxable year of the trust is the calendar year and the regular valuation date is December 31 of each year. The fixed percentage is 5 percent. Between July 1, 1971, and December 31, 1971, the additional property appreciates in value to $12,500 and earns $500 of income. Because the regular valuation date for the year of contribution occurs after the date of the additional contribution, the additional contribution including income earned by it is valued on the regular valuation date. Thus, the required payout with respect to the additional contribution is $325.87 (5 percent × [$12,500 + $500] × 183/365).

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder unitrust.* See § 1.664–4 for rules relating to the calculation of the fair market value of the remainder interest of a charitable remainder unitrust.

(d) *Deduction for transfers to a charitable remainder unitrust.* For rules relating to a deduction for transfers to a charitable remainder unitrust, see sections 170, 2055, 2106, or 2522 and the regulations thereunder. The deduction allowed by section 170 for transfers to charity is limited to the fair market value of the remainder interest of a charitable remainder unitrusts regardless of whether an organization described in section 170(c) also receives a portion of the amount described in § 1.664–3(a)(1). For a special rule relating to the reduction of the amount of a charitable contribution deduction with respect to a contribution of certain ordinary income property or capital gain property, see section 170(e)(1)(A) or (B)(i) and the regulations thereunder. For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and the regulations thereunder.

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) *General rule*—(1) *Rules for determining present value.* For purposes of section 170, 2055, 2106, or 2522, the fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) is its present value determined under this section. The present value determined under this section shall be computed on the basis of—

(i) Life contingencies determined, as to each male and female life involved, from the values of l_x set forth in columns (2) and (3), respectively, of table LN, paragraph (f), § 20.2013–10 of this chapter (Estate Tax Regulations),

(ii) Interest at the rate of 6 percent a year compounded annually, and

(iii) The assumption that the amount described in paragraph (a)(1)(i)(*a*) of § 1.664–3 shall be distributed in accordance with the payout sequence described in the governing instrument.

If the governing instrument does not prescribe when the distribution shall be made during the period for which the payment is made, for purposes of this

section, the distribution shall be considered payable on the first day of the period for which the payment is made.

(2) *Valuation of charitable remainder unitrusts having certain payout sequences.* The method of applying these principles to charitable remainder unitrusts which have certain payout sequences is set forth in paragraph (b) of this section.

(3) *Commissioner may supply factor.* If the computation of the value of the remainder interest of a charitable remainder unitrust requires the use of a factor which is not provided in paragraph (b) of this section, the Commissioner may, if conditions permit, supply the factor upon request. The request must be accompanied by a statement of the date of birth and sex of each individual the duration of whose life may affect the value of the remainder interest and by copies of the relevant instruments. If the Commissioner furnishes the factor, a copy of the letter supplying the factor shall be attached to the tax return in which the deduction is claimed. Many special factors involving the valuation of a remainder interest dependent upon the continuation or termination of more than one life may be found in, or computed with the use of, the tables contained in, the publication entitled "Actuarial Values I: Valuation of Last Survivor Charitable Remainders." This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in subparagraph (1) of this paragraph.

(4) *Statement supporting deduction required.* Any claim for deduction on any return for the value of a remainder interest in a charitable remainder unitrust must be supported by a full statement attached to the return showing the computation of the present value of such interest.

(b) *Valuation of charitable remainder unitrusts having certain payout sequences*—(1) *General rule.* The present value determined under this section of a remainder interest which is dependent on a term of years or the termination of the life of one individual shall be determined under this paragraph provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount which the trust could distribute on such date under paragraph (a)(1)(v) of § 1.664–3 if the taxable year of the trust were to end on such date. The present value of the remainder interest in such trust shall be determined by computing the adjusted payout rate (as defined in subparagraph (2) of this paragraph) and following the procedure outlined in subparagraph (3) or (4) of this paragraph, whichever is applicable. The present value of a remainder interest which is dependent on a term of years is computed under subparagraph (3) of this paragraph. The present value of a remainder interest which is dependent on the termination of the life of one individual is computed under subparagraph (4) of this paragraph.

(2) *Adjusted payout rate.* The adjusted payout rate is determined by multiplying the fixed percentage described in paragraph (a)(1)(i)(*a*) of § 1.664–3 by the figure in column (2) of Table F which describes the payout sequence of the trust opposite the number in column (1) of Table F which corresponds to the number of months by which the valuation date for the first full taxable year of the trust precedes the first payout date for such taxable year. If the governing instrument does not prescribe when the distribution shall be made during the taxable year of the trust, see paragraph (a)(3) of this section. In the case of a trust having a payout sequence for which no figures have been provided by Table F and in the case of a trust which determines the fair market value of the trust assets by taking the average of valuations on more than one date during the taxable year, see paragraph (a)(3) of this section.

(3) *Period is a term of years.* If the period described in paragraph (a)(5) of § 1.664–3 is a term of years, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table D in subparagraph (5) of this paragraph opposite the number in column (1) of Table D which corresponds to the number of years in the term. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this subparagraph. For purposes of this section, the term "appropriate valuation date" means the date on which the property is transferred to the trust by the donor except that, for purposes of section 2055 or 2106, it means the date of death unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder in which event it means the alternate valuation date. If the adjusted payout rate is greater than 9 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

Example. D transfers $100,000 to a charitable remainder unitrust on January 1, 1970. The trust instrument requires that the trust pay to D semiannually (on June 30 and December 31) 5 percent of the fair market value of the trust assets as of June 30th for a term of 15 years. The adjusted payout rate is 4.928 percent (5% × 0.985643). The present value of the remainder interest is $46,863.60, computed as follows:

Factor at 4.8 percent for 15 years	0.478139
Factor at 5.0 percent for 15 years	.463291
Difference	.014848

$$\frac{4.928\% - 4.8\%}{0.2\%} = \frac{X}{0.014848}$$

X = 0.009503

Factor at 4.8 percent for 15 years	.478139
Less: X	.009503
Interpolated factor	.468636

Present value of remainder interest = $100,000 × 0.468636 = $46,863.60.

(4) *Period is the life of one individual.* If the period described in paragraph (a)(5) of § 1.664–3 is the life of one individual, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table E(1) or E(2) in paragraph (5) of this paragraph opposite the number in column (1) which corresponds to the age of the individual whose life measures the period. Table E(1) is to be used when the individual upon whose life the remainder interest is based is a male and Table E(2) is to be used when such individual is a female whose age is less than 95 years. In the case of a female whose age is more than 94 years, Table E(1) is to be used. For purposes of the computations described in this paragraph, the age of an individual is to be taken as the age of that individual at his nearest birthday. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided in Table E(1) or E(2), a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this subparagraph. If the adjusted payout rate is greater than 9 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

Example. D, a male who will be 50 years old on April 15, 1970, transfers $100,000 to a charitable remainder unitrust on January 1, 1970. The trust instrument requires that the trust pay to D at the end of each taxable year of the trust 5 percent of the fair market value of the trust assets as of the beginning of each taxable year of the trust. The adjusted payout rate is 4.717 percent (5 percent × .943396). The present value of the remainder interest is $37,816, computed as follows:

Factor at 4.6 percent for male aged 50	0.38623
Factor at 4.8 percent for male aged 50	.37244
Difference	.01379

$$\frac{4.717\% - 4.6\%}{0.2\%} = \frac{X}{0.01379}$$

X = 0.00807

Factor at 4.6 percent for male aged 50	.38623
Less: X	.00807
Interpolated factor	.37816

Present value of remainder interest = $100,000 × 0.37816 = $37,816.

(5) The following tables shall be used in the application of the provisions of this section:

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
Years	Adjusted payout rate				
	4.6%	4.8%	5.0%	5.2%	5.4%
1	.954000	.952000	.950000	.948000	.946000
2	.910116	.906304	.902500	.898704	.894916
3	.868251	.862801	.857375	.851971	.846591
4	.828311	.821387	.814506	.807669	.800875
5	.790200	.781960	.773781	.765670	.757627
6	.753859	.744426	.735092	.725855	.716716
7	.719182	.708694	.698337	.688111	.678013
8	.686099	.674677	.663420	.652329	.641400
9	.654539	.642292	.630249	.618408	.606765
10	.624430	.611462	.598737	.586251	.573999
11	.595706	.582112	.568800	.555766	.543003
12	.568304	.554170	.540360	.526866	.513681
13	.542162	.527570	.513342	.499469	.485942
14	.517222	.502247	.487675	.473496	.459701
15	.493430	.478139	.463291	.448875	.434878
16	.470732	.455188	.440127	.425533	.411394
17	.449079	.433339	.418120	.403405	.389179
18	.428421	.412539	.397214	.382428	.368163
19	.408714	.392737	.377354	.362542	.348282
20	.389913	.373886	.358486	.343690	.329475

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2				
Years	Adjusted payout rate				
	5.6%	5.8%	6.0%	6.2%	6.4%
1	.944000	.942000	.940000	.938000	.936000
2	.891136	.887364	.883600	.879844	.876096
3	.841232	.835897	.830584	.825294	.820026
4	.794123	.787415	.780749	.774125	.767544
5	.749652	.741745	.733904	.726130	.718421
6	.707672	.698724	.689870	.681110	.672442
7	.668042	.658198	.648478	.638881	.629406
8	.630632	.620022	.609569	.599270	.589124
9	.595317	.584061	.572995	.562115	.551420
10	.561979	.550185	.538615	.527264	.516129
11	.530508	.518275	.506298	.494574	.483097
12	.500800	.488215	.475920	.463910	.452179
13	.472755	.459898	.447365	.435148	.423239
14	.446281	.433224	.420523	.408169	.396152
15	.421289	.408097	.395292	.382862	.370798
16	.397697	.384427	.371574	.359125	.347067
17	.375426	.362131	.349280	.336859	.324855
18	.354402	.341127	.328323	.315974	.304064
19	.334555	.321342	.308624	.296383	.284604
20	.315820	.302704	.290106	.278008	.266389

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
Years	Adjusted payout rate				
	6.6%	6.8%	7.0%	7.2%	7.4%
1	.934000	.932000	.930000	.928000	.926000
2	.872356	.868624	.864900	.861184	.857476
3	.814781	.809558	.804357	.799179	.794023
4	.761005	.754508	.748052	.741638	.735265
5	.710779	.703201	.695688	.688240	.680855
6	.663867	.655383	.646990	.638687	.630472
7	.620052	.610817	.601701	.592701	.583817
8	.579129	.569282	.559582	.550027	.540615
9	.540906	.530571	.520411	.510425	.500609
10	.505206	.494492	.583982	.473674	.463564
11	.471863	.460866	.450104	.439570	.429260
12	.440720	.429527	.418596	.407921	.397495
13	.411632	.400320	.389295	.378550	.368081
14	.384465	.373098	.362044	.351295	.340843
15	.359090	.347727	.336701	.326002	.315620
16	.335390	.324082	.313132	.302529	.292264
17	.313254	.302044	.291213	.280747	.270637
18	.292579	.281505	.270828	.260533	.250610
19	.273269	.262363	.251870	.241775	.232065
20	.255233	.244522	.234239	.224367	.214892

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
Years	Adjusted payout rate				
	7.6%	7.8%	8.0%	8.2%	8.4%
1	.924000	.922000	.920000	.918000	.916000
2	.853776	.850084	.846400	.842724	.839056
3	.788889	.783777	.778688	.773621	.768575
4	.728933	.722643	.716393	.710184	.704015
5	.673535	.666277	.659082	.651949	.644878
6	.622346	.614307	.606355	.598489	.590708
7	.575048	.566391	.557847	.549413	.541089
8	.531344	.522213	.513219	.504361	.495637
9	.490962	.481480	.472161	.463003	.454004
10	.453649	.443925	.434388	.425037	.415867
11	.419171	.409298	.399637	.390184	.380934
12	.387314	.377373	.367666	.358189	.348936
13	.357879	.347938	.338253	.328817	.319625
14	.330680	.320799	.311193	.301854	.292777
15	.305548	.295777	.286297	.277102	.268184
16	.282326	.272706	.263394	.254380	.245656
17	.260870	.251435	.242322	.233521	.225021
18	.241044	.231823	.222936	.214372	.206119
19	.222724	.213741	.205101	.196794	.188805
20	.205797	.197069	.188693	.180657	.172946

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2		
Years	Adjusted payout rate		
	8.6%	8.8%	9.0%
1	.914000	.912000	.910000
2	.835396	.831744	.828100
3	.763552	.758551	.753571
4	.697886	.691798	.685750
5	.637868	.630920	.624032
6	.583012	.575399	.567869
7	.532873	.524764	.516761
8	.487046	.478585	.470253
9	.445160	.436469	.427930
10	.406876	.398060	.389416
11	.371885	.363031	.354369
12	.339902	.331084	.322475
13	.310671	.301949	.293453
14	.283953	.275377	.267042
15	.259533	.251144	.243008
16	.237213	.229043	.221137
17	.216813	.208887	.201235
18	.198167	.190505	.183124
19	.181125	.173741	.166643
20	.165548	.158452	.151645

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2				
Age	Adjusted payout rate				
	4.6%	4.8%	5.0%	5.2%	5.4%
0	.08579	.08028	.07541	.07110	.06728
1	.06190	.05610	.05097	.04642	.04240
2	.06314	.05717	.05188	.04719	.04303
3	.06509	.05895	.05350	.04866	.04436
4	.06738	.06106	.05545	.05046	.04602
5	.06993	.06344	.05766	.05252	.04793
6	.07268	.06601	.06006	.05476	.05003
7	.07561	.06876	.06265	.05718	.05230
8	.07874	.07171	.06542	.05979	.05475
9	.08206	.07484	.06837	.06258	.05738
10	.08558	.07817	.07153	.06556	.06020
11	.08930	.08170	.07488	.06874	.06322
12	.09319	.08540	.07839	.07208	.06640
13	.09722	.08924	.08205	.07556	.06971
14	.10133	.09316	.08578	.07912	.07309
15	.10550	.09713	.08957	.08272	.07652
16	.10970	.10113	.09338	.08635	.07997
17	.11396	.10519	.09724	.09002	.08346
18	.11826	.10929	.10114	.09373	.08699
19	.12267	.11349	.10513	.09753	.09060
20	.12718	.11779	.10923	.10143	.09431
21	.13180	.12220	.11344	.10544	.09813

TABLE E (1)—Continued

1	2				
Age	Adjusted payout rate				
	4.6%	4.8%	5.0%	5.2%	5.4%
22	.13656	.12674	.11777	.10957	.10206
23	.14150	.13147	.12229	.11388	.10617
24	.14668	.13643	.12704	.11842	.11051
25	.15217	.14171	.13210	.12327	.11516
26	.15800	.14732	.13751	.12847	.12015
27	.16416	.15327	.14325	.13400	.12547
28	.17064	.16055	.14932	.13987	.13113
29	.17745	.16616	.15571	.14606	.13712
30	.18454	.17305	.16240	.15254	.14341
31	.19193	.18024	.16940	.15934	.15000
32	.19963	.18775	.17671	.16645	.15692
33	.20763	.19556	.18433	.17388	.16415
34	.21595	.20369	.19228	.18164	.17172
35	.22457	.21215	.20056	.18974	.17963
36	.23350	.22091	.20915	.19815	.18786
37	.24274	.22998	.21807	.20690	.19643
38	.25227	.23938	.22729	.21596	.20533
39	.26209	.24907	.23683	.22535	.21455
40	.27219	.25903	.24666	.23502	.22407
41	.28254	.26927	.25677	.24499	.23390
42	.29315	.27977	.26715	.25525	.24402
43	.30401	.29054	.27781	.26579	.25443
44	.31512	.30156	.28874	.27661	.26513
45	.32647	.31284	.29993	.28770	.27611
46	.33806	.32437	.31139	.29907	.28738
47	.34988	.33615	.32310	.31071	.29894
48	.36188	.34811	.33502	.32257	.31073
49	.37401	.36023	.34710	.33460	.32269
50	.38623	.37244	.35929	.34675	.33479
51	.39851	.38473	.37156	.35899	.34699
52	.41086	.39709	.38392	.37134	.35930
53	.42329	.40955	.39639	.38380	.37174
54	.43586	.42216	.40903	.39644	.38437

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2				
Age	Adjusted payout rate				
	5.6%	5.8%	6.0%	6.2%	6.4%
0	.06390	.06089	.05821	.05583	.05369
1	.03883	.03565	.03282	.03031	.02806
2	.03933	.03604	.03311	.03049	.02815
3	.04053	.03712	.03408	.03136	.02893
4	.04206	.03853	.03537	.03254	.03001
5	.04383	.04017	.03690	.03396	.03133
6	.04579	.04200	.03860	.03556	.03282
7	.04792	.04400	.04047	.03731	.03446
8	.05022	.04616	.04251	.03923	.03627
9	.05271	.04851	.04473	.04132	.03824
10	.05538	.05104	.04712	.04359	.04039
11	.05824	.05375	.04970	.04604	.04272
12	.06126	.05663	.05244	.04864	.04520
13	.06442	.05963	.05530	.05137	.04780
14	.06764	.06270	.05822	.05415	.05046
15	.07090	.06581	.06118	.05697	.05314
16	.07418	.06893	.06415	.05979	.05583
17	.07750	.07208	.06714	.06264	.05854
18	.08086	.07526	.07017	.06551	.06126
19	.08429	.07853	.07326	.06845	.06405
20	.08781	.08187	.07644	.07147	.06692
21	.09144	.08532	.07972	.07458	.06987
22	.09518	.08887	.08309	.07779	.07291
23	.09909	.09260	.08664	.08116	.07611
24	.10324	.09655	.09040	.08474	.07953
25	.10769	.10081	.09447	.08863	.08324
26	.11248	.10540	.09888	.09285	.08728
27	.11760	.11033	.10362	.09740	.09165
28	.12306	.11559	.10868	.10228	.09635
29	.12885	.12119	.11408	.10749	.10137
30	.13493	.12707	.11977	.11299	.10668
31	.14133	.13327	.12577	.11880	.11231
32	.14805	.13979	.13210	.12494	.11826
33	.15509	.14664	.13876	.13140	.12453
34	.16247	.15382	.14575	.13821	.13115
35	.17018	.16135	.15309	.14536	.13812
36	.17823	.16922	.16077	.15285	.14543
37	.18662	.17743	.16880	.16070	.15309
38	.19535	.18597	.17717	.16889	.16110
39	.20440	.19486	.18588	.17742	.16946
40	.21377	.20406	.19491	.18628	.17818
41	.22344	.21357	.20426	.19547	.18717
42	.23341	.22339	.21392	.20498	.19651
43	.24368	.23352	.22391	.21480	.20618
44	.25425	.24396	.23420	.22495	.21618
45	.26512	.25470	.24481	.23543	.22651
46	.27629	.26575	.25574	.24622	.23718
47	.28775	.27711	.26698	.25734	.24817
48	.29945	.28871	.27848	.26873	.25944
49	.31134	.30052	.29019	.28034	.27094
50	.32337	.31247	.30206	.29212	.28261
51	.33552	.32455	.31406	.30403	.29444
52	.34778	.33676	.32620	.31610	.30642
53	.36019	.34912	.33851	.32834	.31858
54	.37280	.36169	.35104	.34081	.33099

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate				
	6.6%	6.8%	7.0%	7.2%	7.4%
0	.05179	.05008	.04854	.04716	.04592
1	.02605	.02425	.02263	.02118	.01989
2	.02506	.02418	.02250	.02098	.01967
3	.02674	.02479	.02303	.02144	.02007
4	.02774	.02570	.02386	.02220	.02071
5	.02896	.02683	.02491	.02318	.02161
6	.03035	.02813	.02613	.02432	.02261
7	.03189	.02958	.02749	.02559	.02381
8	.03360	.03118	.02900	.02702	.02528
9	.03546	.03295	.03067	.02861	.02678
10	.03750	.03489	.03251	.03036	.02843
11	.03972	.03700	.03452	.03227	.03023
12	.04208	.03925	.03667	.03433	.03210
13	.04456	.04162	.03894	.03649	.03423
14	.04710	.04404	.04125	.03870	.03639
15	.04966	.04648	.04358	.04093	.03856
16	.05221	.04891	.04590	.04314	.04067
17	.05479	.05136	.04823	.04536	.04270
18	.05738	.05382	.05056	.04757	.04482
19	.06003	.05633	.05295	.04984	.04693
20	.06274	.05891	.05539	.05216	.04918
21	.06554	.06157	.05791	.05455	.05148
22	.06843	.06430	.06051	.05701	.05375
23	.07147	.06719	.06325	.05961	.05628
24	.07472	.07028	.06619	.06240	.05895
25	.07826	.07366	.06941	.06548	.06180
26	.08213	.07737	.07296	.06887	.06503
27	.08633	.08139	.07682	.07257	.06868
28	.09085	.08574	.08100	.07659	.07243
29	.09569	.09041	.08550	.08093	.07669
30	.10082	.09536	.09028	.08554	.08115
31	.10626	.10062	.09537	.09046	.08587
32	.11202	.10621	.10077	.09570	.09093
33	.11812	.11212	.10651	.10126	.09638
34	.12455	.11837	.11258	.10716	.10205
35	.13133	.12497	.11900	.11340	.10814
36	.13846	.13192	.12577	.11999	.11457
37	.14594	.13922	.13289	.12694	.12134
38	.15377	.14687	.14037	.13425	.12841
39	.16195	.15488	.14821	.14191	.13596
40	.17047	.16322	.15638	.14991	.14389
41	.17932	.17190	.16489	.15825	.15196
42	.18850	.18092	.17374	.16694	.16044
43	.19802	.19027	.18293	.17597	.16937
44	.20786	.19997	.19247	.18535	.17856
45	.21805	.21000	.20235	.19508	.18810
46	.22857	.22038	.21259	.20516	.19807
47	.23943	.23111	.22318	.21561	.20848
48	.25058	.24213	.23406	.22636	.21905
49	.26196	.25339	.24520	.23737	.22989
50	.27353	.26485	.25654	.24859	.24090
51	.28525	.27646	.26804	.25998	.25221
52	.29714	.28825	.27973	.27155	.26379
53	.30922	.30024	.29162	.28334	.27538
54	.32156	.31249	.30379	.29542	.28731

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate				
	7.6%	7.8%	8.0%	8.2%	8.4%
0	.04480	.04378	.04285	.04201	.04125
1	.01870	.01763	.01667	.01580	.01500
2	.01838	.01727	.01626	.01534	.01451
3	.01872	.01755	.01649	.01553	.01466
4	.01935	.01813	.01702	.01601	.01509
5	.02020	.01891	.01774	.01668	.01571
6	.02119	.01984	.01862	.01750	.01648
7	.02232	.02091	.01962	.01845	.01738
8	.02360	.02212	.02077	.01953	.01841
9	.02503	.02347	.02205	.02076	.01958
10	.02661	.02498	.02350	.02214	.02089
11	.02836	.02665	.02510	.02367	.02236
12	.03024	.02846	.02682	.02533	.02396
13	.03222	.03036	.02865	.02708	.02564
14	.03425	.03230	.03051	.02887	.02736
15	.03628	.03424	.03238	.03066	.02908
16	.03829	.03617	.03421	.03242	.03076
17	.04031	.03809	.03605	.03417	.03243
18	.04231	.03999	.03786	.03589	.03408
19	.04435	.04193	.03970	.03765	.03575
20	.04644	.04392	.04159	.03943	.03744
21	.04859	.04595	.04352	.04126	.03918
22	.05080	.04804	.04550	.04314	.04096
23	.05314	.05026	.04760	.04514	.04285
24	.05566	.05266	.04988	.04730	.04490

TABLE E (1)—Continued

1 Age	2 Adjusted payout rate				
	7.6%	7.8%	8.0%	8.2%	8.4%
25	.05846	.05533	.05242	.04972	.04721
26	.06156	.05829	.05525	.05243	.04980
27	.06497	.06156	.05839	.05544	.05269
28	.06868	.06513	.06182	.05874	.05586
29	.07271	.06901	.06556	.06234	.05933
30	.07700	.07316	.06956	.06620	.06305
31	.08160	.07760	.07385	.07035	.06706
32	.08651	.08235	.07845	.07480	.07137
33	.09173	.08741	.08336	.07956	.07599
34	.09730	.09281	.08860	.08465	.08093
35	.10320	.09856	.09419	.09008	.08620
36	.10945	.10464	.10011	.09584	.09182
37	.11606	.11108	.10639	.10196	.09778
38	.12302	.11788	.11303	.10844	.10410
39	.13035	.12504	.12002	.11527	.11078
40	.13801	.13254	.12735	.12245	.11779
41	.14602	.14038	.13504	.12997	.12516
42	.15438	.14857	.14307	.13784	.13287
43	.16308	.15712	.15145	.14607	.14094
44	.17214	.16602	.16020	.15466	.14938
45	.18156	.17529	.16931	.16361	.15818
46	.19135	.18493	.17880	.17295	.16737
47	.20151	.19494	.18866	.18267	.17694
48	.21199	.20527	.19886	.19272	.18685
49	.22273	.21588	.20933	.20305	.19704
50	.23369	.22671	.22003	.21362	.20747
51	.24484	.23773	.23092	.22438	.21810
52	.25618	.24896	.24202	.23536	.22895
53	.26776	.26042	.25336	.24658	.24005
54	.27963	.27218	.26502	.25812	.25148

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate		
	8.6%	8.8%	9.0%
0	.04055	.03991	.03932
1	.01428	.01362	.01302
2	.01375	.01306	.01243
3	.01386	.01314	.01247
4	.01425	.01348	.01278
5	.01483	.01402	.01329
6	.01556	.01470	.01392
7	.01640	.01550	.01468
8	.01738	.01643	.01556
9	.01849	.01749	.01658
10	.01975	.01870	.01774
11	.02116	.02006	.01904
12	.02270	.02154	.02047
13	.02432	.02310	.02198
14	.02597	.02469	.02351
15	.02762	.02628	.02504
16	.02924	.02783	.02653
17	.03083	.02936	.02799
18	.03240	.03085	.02942
19	.03399	.03237	.03086
20	.03560	.03390	.03232
21	.03725	.03546	.03380
22	.03894	.03706	.03531
23	.04073	.03876	.03692
24	.04268	.04061	.03868
25	.04488	.04270	.04068
26	.04735	.04507	.04294
27	.05012	.04773	.04549
28	.05317	.05066	.04831
29	.05651	.05388	.05142
30	.06011	.05735	.05476
31	.06398	.06110	.05839
32	.06815	.06513	.06229
33	.07263	.06947	.06650
34	.07742	.07413	.07102
35	.08255	.07911	.07587
36	.08802	.08443	.08105
37	.09383	.09010	.08657
38	.10000	.09612	.09244
39	.10652	.10249	.09866
40	.11338	.10920	.10522
41	.12059	.11625	.11213
42	.12815	.12366	.11939
43	.13607	.13142	.12700
44	.14435	.13955	.13498
45	.15300	.14806	.14334
46	.16204	.15694	.15208
47	.17147	.16623	.16122
48	.18123	.17585	.17070
49	.19129	.18577	.18048
50	.20158	.19592	.19050
51	.21208	.20629	.20073
52	.22280	.21688	.21119
53	.23378	.22773	.22192
54	.24508	.23892	.23298

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate				
	4.6%	4.8%	5.0%	5.2%	5.4%
55	.44859	.43495	.42186	.40929	.39723
56	.46150	.44793	.43489	.42237	.41032
57	.47458	.46110	.44813	.43565	.42365
58	.48776	.47438	.46150	.44909	.43713
59	.50097	.48770	.47492	.46259	.45069
60	.51414	.50101	.48833	.47609	.46427
61	.52726	.51426	.50170	.48956	.47783
62	.54032	.52748	.51505	.50302	.49138
63	.55334	.54065	.52837	.51647	.50493
64	.56633	.55381	.54168	.52991	.51850
65	.57929	.56696	.55499	.54337	.53208
66	.59221	.58007	.56828	.55682	.54568
67	.60510	.59317	.58156	.57027	.55928
68	.61796	.60624	.59483	.58372	.57290
69	.63082	.61933	.60813	.59721	.58657
70	.64369	.63244	.62146	.61075	.60030
71	.65659	.64559	.63485	.62436	.61411
72	.66950	.65877	.64828	.63802	.62799
73	.68243	.67198	.66175	.65174	.64194
74	.69534	.68517	.67522	.66547	.65591
75	.70820	.69834	.68867	.67919	.66990
76	.72103	.71148	.70211	.69292	.68389
77	.73381	.72459	.71553	.70663	.69789
78	.74650	.73761	.72888	.72029	.71184
79	.75897	.75043	.74202	.73374	.72560
80	.77113	.76292	.75484	.74689	.73905
81	.78273	.77486	.76710	.75946	.75192
82	.79361	.78606	.77861	.77126	.76401
83	.80383	.79659	.78943	.78237	.77540
84	.81371	.80676	.79990	.79312	.78642
85	.82363	.81699	.81043	.80395	.79753
86	.83324	.82691	.82065	.81446	.80833
87	.84255	.83653	.83057	.82466	.81882
88	.85152	.84580	.84013	.83451	.82895
89	.85997	.85453	.84914	.84380	.83851
90	.86771	.86254	.85741	.85232	.84728
91	.87471	.86978	.86489	.86005	.85523
92	.88104	.87633	.87166	.86703	.86243
93	.88671	.88220	.87773	.87329	.86889
94	.89177	.88745	.88316	.87889	.87466
95	.89639	.89224	.88811	.88400	.87992
96	.90091	.89692	.89295	.88900	.88508
97	.90522	.90138	.89757	.89378	.89001
98	.90932	.90564	.90197	.89833	.89470
99	.91324	.90970	.90617	.90267	.89919
100	.91697	.91357	.91018	.90682	.90347
101	.92054	.91727	.91402	.91078	.90756
102	.92398	.92084	.91772	.91461	.91152
103	.92735	.92434	.92135	.91836	.91539
104	.93076	.92788	.92501	.92215	.91930
105	.93443	.93169	.92896	.92623	.92352
106	.93886	.93628	.93372	.93116	.92860
107	.94513	.94280	.94047	.93815	.93583
108	.95579	.95389	.95200	.95010	.94821
109	.97700	.97600	.97500	.97400	.97300

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate				
	5.6%	5.8%	6.0%	6.2%	6.4%
55	.38565	.37452	.36383	.35356	.34369
56	.39875	.38761	.37690	.36660	.35669
57	.41209	.40096	.39025	.37993	.36998
58	.42561	.41451	.40380	.39347	.38351
59	.43922	.42814	.41746	.40714	.39718
60	.45285	.44182	.43117	.42087	.41091
61	.46648	.45551	.44489	.43463	.42469
62	.48012	.46921	.45865	.44842	.43851
63	.49376	.48293	.47243	.46225	.45238
64	.50743	.49669	.48626	.47615	.46633
65	.52113	.51049	.50015	.49011	.48035
66	.53485	.52432	.51408	.50412	.49444
67	.54859	.53818	.52806	.51820	.50860
68	.56236	.55209	.54208	.53233	.52283
69	.57619	.56606	.55619	.54656	.53717
70	.59009	.58013	.57041	.56091	.55164
71	.60409	.59431	.58474	.57540	.56626
72	.61818	.60858	.59920	.59002	.58103
73	.63234	.62295	.61375	.60475	.59593
74	.64655	.63738	.62839	.61957	.61094
75	.66078	.65183	.64306	.63445	.62601
76	.67503	.66633	.65779	.64940	.64117
77	.68930	.68086	.67256	.66441	.65640
78	.70353	.69536	.68732	.67942	.67164
79	.71758	.70969	.70192	.69428	.68675

TABLE E (1)—Continued

1 Age	2 Adjusted payout rate 5.6%	5.8%	6.0%	6.2%	6.4%
80	.73133	.72372	.71622	.70884	.70157
81	.74449	.73716	.72994	.72282	.71580
82	.75686	.74981	.74285	.73598	.72920
83	.76852	.76172	.75501	.74838	.74184
84	.77981	.77327	.76681	.76043	.75412
85	.79120	.78493	.77873	.77260	.76654
86	.80226	.79627	.79033	.78446	.77865
87	.81303	.80730	.80163	.79602	.79046
88	.82343	.81798	.81257	.80721	.80190
89	.83326	.82806	.82291	.81780	.81274
90	.84228	.83733	.83241	.82754	.82270
91	.85046	.84573	.84103	.83637	.83175
92	.85787	.85334	.84884	.84438	.83995
93	.86451	.86017	.85585	.85157	.84732
94	.87045	.86627	.86212	.85800	.85390
95	.87587	.87185	.86785	.86387	.85993
96	.88119	.87731	.87346	.86964	.86581
97	.88626	.88253	.87883	.87514	.87143
98	.89110	.88751	.88395	.88040	.87688
99	.89572	.89227	.88884	.88542	.88208
100	.90013	.89681	.89351	.89022	.88693
101	.90436	.90116	.89799	.89482	.89165
102	.90843	.90536	.90231	.89926	.89628
103	.91243	.90948	.90654	.90361	.90073
104	.91646	.91363	.91082	.90801	.90520
105	.92081	.91811	.91542	.91274	.91001
106	.92606	.92352	.92099	.91846	.91597
107	.93352	.93121	.92891	.92661	.92434
108	.94631	.94442	.94254	.94065	.93872
109	.97200	.97100	.97000	.96900	.96806

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 6.6%	6.8%	7.0%	7.2%	7.4%
55	.33419	.32506	.31627	.30782	.29968
56	.34714	.33795	.32910	.32057	.31235
57	.36040	.35117	.34226	.33367	.32539
58	.37391	.36463	.35569	.34705	.33870
59	.38755	.37826	.36928	.36060	.35221
60	.40129	.39198	.38298	.37427	.36584
61	.41507	.40576	.39675	.38802	.37956
62	.42891	.41961	.41059	.40185	.39338
63	.44281	.43353	.42452	.41578	.40729
64	.45680	.44754	.43855	.42982	.42133
65	.47087	.46165	.45269	.44398	.43551
66	.48502	.47585	.46693	.45825	.44980
67	.49925	.49015	.48128	.47264	.46423
68	.51356	.50453	.49573	.48715	.47878
69	.52800	.51906	.51033	.50182	.49350
70	.54259	.53375	.52511	.51667	.50842
71	.55733	.54861	.54007	.53172	.52356
72	.57224	.56364	.55522	.54698	.53892
73	.58730	.57884	.57055	.56244	.55448
74	.60247	.59417	.58603	.57805	.57022
75	.61773	.60960	.60162	.59379	.58611
76	.63308	.62514	.61734	.60967	.60215
77	.64852	.64078	.63317	.62569	.61834
78	.66399	.65647	.64907	.64178	.63462
79	.67934	.67204	.66485	.65778	.65081
80	.69440	.68734	.68038	.67352	.66676
81	.70888	.70205	.69532	.68868	.68213
82	.72251	.71591	.70940	.70297	.69663
83	.73538	.72900	.72270	.71648	.71033
84	.74789	.74173	.73564	.72963	.72368
85	.76055	.75463	.74877	.74298	.73725
86	.77291	.76722	.76159	.75602	.75051
87	.78496	.77951	.77412	.76878	.76349
88	.79665	.79144	.78628	.78117	.77611
89	.80772	.80274	.79781	.79293	.78808
90	.81791	.81315	.80844	.80376	.79913
91	.82716	.82261	.81810	.81362	.80917
92	.83555	.83119	.82686	.82256	.81829
93	.84309	.83890	.83474	.83060	.82650
94	.84984	.84580	.84179	.83780	.83384
95	.85600	.85210	.84823	.84438	.84056
96	.86205	.85830	.85456	.85085	.84716
97	.86784	.86422	.86062	.85704	.85348
98	.87337	.86988	.86641	.86295	.85952
99	.87865	.87529	.87194	.86861	.86530
100	.88370	.88046	.87724	.87403	.87084
101	.88854	.88542	.88231	.87922	.87614
102	.89321	.89021	.88722	.88424	.88127
103	.89779	.89490	.89202	.88915	.88629
104	.90242	.89964	.89688	.89412	.89137
105	.90741	.90475	.90211	.89947	.89684
106	.91343	.91093	.90843	.90594	.90345
107	.92203	.91975	.91747	.91519	.91292
108	.93688	.93500	.93312	.93125	.92937
109	.96700	.96600	.96500	.96400	.96300

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate 7.6%	7.8%	8.0%	8.2%	8.4%
55	.29185	.28430	.27703	.27003	.26328
56	.30443	.29680	.28944	.28233	.27548
57	.31739	.30968	.30223	.29504	.28809
58	.33065	.32286	.31534	.30807	.30104
59	.34410	.33625	.32867	.32132	.31422
60	.35768	.34979	.34214	.33474	.32757
61	.37137	.36343	.35574	.34828	.34105
62	.38516	.37719	.36945	.36195	.35467
63	.39906	.39106	.38330	.37576	.36843
64	.41309	.40508	.39730	.38973	.38237
65	.42727	.41926	.41146	.40387	.39649
66	.44158	.43357	.42577	.41818	.41078
67	.45603	.44803	.44025	.43265	.42525
68	.47061	.46265	.45488	.44730	.43990
69	.48538	.47746	.46972	.46217	.45478
70	.50037	.49250	.48480	.47728	.46993
71	.51558	.50777	.50014	.49266	.48535
72	.53103	.52330	.51573	.50832	.50107
73	.54669	.53906	.53158	.52425	.51706
74	.56255	.55502	.54764	.54040	.53330
75	.57857	.57116	.56390	.55676	.54976
76	.59475	.58749	.58035	.57334	.56645
77	.61111	.60400	.59701	.59013	.58337
78	.62756	.62062	.61379	.60707	.60046
79	.64395	.63719	.63054	.62398	.61753
80	.66010	.65354	.64707	.64069	.63440
81	.67567	.66930	.66301	.65682	.65070
82	.69037	.68419	.67809	.67206	.66612
83	.70426	.69827	.69235	.68650	.68072
84	.71781	.71200	.70626	.70059	.69498
85	.73158	.72598	.72044	.71495	.70953
86	.74506	.73966	.73432	.72903	.72380
87	.75825	.75307	.74793	.74285	.73781
88	.77109	.76612	.76119	.75631	.75148
89	.78328	.77852	.77380	.76912	.76448
90	.79453	.78997	.78544	.78096	.77651
91	.80476	.80039	.79604	.79173	.78746
92	.81406	.80985	.80568	.80154	.79742
93	.82242	.81837	.81435	.81036	.80639
94	.82991	.82600	.82212	.81827	.81444
95	.83676	.83298	.82922	.82550	.82179
96	.84349	.83984	.83622	.83261	.82903
97	.84994	.84642	.84292	.83944	.83598
98	.85611	.85271	.84933	.84597	.84263
99	.86201	.85873	.85547	.85222	.84900
100	.86766	.86450	.86135	.85822	.85510
101	.87308	.87003	.86699	.86397	.86096
102	.87832	.87537	.87244	.86953	.86662
103	.88345	.88061	.87779	.87497	.87217
104	.88863	.88591	.88319	.88048	.87778
105	.89422	.89161	.88900	.88641	.88382
106	.90097	.89850	.89604	.89358	.89113
107	.91065	.90839	.90614	.90388	.90163
108	.92750	.92563	.92376	.92189	.92003
109	.96200	.96100	.96000	.95900	.95800

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate 8.6%	8.8%	9.0%
55	.25677	.25049	.24444
56	.26887	.26249	.25632
57	.28138	.27490	.26864
58	.29424	.28767	.28131
59	.30734	.30069	.29424
60	.32062	.31389	.30736
61	.33404	.32723	.32064
62	.34760	.34074	.33407
63	.36132	.35440	.34768
64	.37522	.36826	.36149
65	.38931	.38231	.37550
66	.40358	.39656	.38971
67	.41803	.41100	.40413
68	.43268	.42564	.41876
69	.44758	.44053	.43365
70	.46274	.45571	.44884
71	.47820	.47120	.46435
72	.49396	.48700	.48019
73	.51002	.50311	.49634
74	.52633	.51950	.51279
75	.54288	.53613	.52949
76	.55967	.55302	.54648
77	.57672	.57018	.56375
78	.59394	.58753	.58122
79	.61117	.60490	.59873
80	.62820	.62209	.61607

TABLE E (1)—Continued

1 Age	2 Adjusted payout rate 8.6%	8.8%	9.0%
81	.64467	.63872	.63285
82	.66025	.65446	.64874
83	.67501	.66938	.66381
84	.68944	.68396	.67854
85	.70417	.69886	.69361
86	.71862	.71350	.70843
87	.73283	.72789	.72300
88	.74668	.74194	.73723
89	.75989	.75533	.75081
90	.77209	.76771	.76337
91	.78322	.77901	.77483
92	.79334	.78929	.78526
93	.80246	.79855	.79466
94	.81063	.80685	.80310
95	.81811	.81444	.81081
96	.82547	.82193	.81841
97	.83254	.82911	.82571
98	.83930	.83600	.83271
99	.84578	.84259	.83941
100	.85200	.84891	.84583
101	.85796	.85498	.85201
102	.86373	.86085	.85798
103	.86938	.86660	.86383
104	.87509	.87241	.86974
105	.88124	.87867	.87611
106	.88868	.88624	.88381
107	.89939	.89715	.89492
108	.91816	.91630	.91444
109	.95700	.95600	.95500

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 4.6%	4.8%	5.0%	5.2%	5.4%
0	.06451	.05997	.05602	.05256	.04954
1	.04555	.04079	.03664	.03301	.02984
2	.04619	.04128	.03700	.03324	.02996
3	.04751	.04245	.03802	.03414	.03074
4	.04911	.04389	.03932	.03531	.03179
5	.05090	.04552	.04081	.03666	.03301
6	.05284	.04731	.04244	.03815	.03437
7	.05496	.04926	.04424	.03981	.03590
8	.05723	.05136	.04617	.04160	.03755
9	.05965	.05361	.04826	.04353	.03935
10	.06222	.05600	.05049	.04561	.04128
11	.06493	.05853	.05286	.04782	.04334
12	.06779	.06121	.05536	.05016	.04553
13	.07076	.06400	.05797	.05261	.04782
14	.07385	.06690	.06070	.05517	.05022
15	.07705	.06991	.06353	.05782	.05270
16	.08035	.07301	.06644	.06056	.05537
17	.08376	.07622	.06947	.06341	.05795
18	.08728	.07955	.07260	.06636	.06075
19	.09094	.08300	.07586	.06944	.06360
20	.09476	.08662	.07928	.07267	.06679
21	.09874	.09038	.08285	.07604	.06984
22	.10288	.09431	.08658	.07958	.07325
23	.10719	.09842	.09047	.08328	.07675
24	.11170	.10271	.09456	.08716	.08042
25	.11640	.10720	.09884	.09124	.08430
26	.12130	.11188	.10331	.09551	.08846
27	.12640	.11677	.10798	.09997	.09265
28	.13173	.12188	.11288	.10466	.09714
29	.13726	.12719	.11798	.10955	.10185
30	.14302	.13273	.12331	.11467	.10677
31	.14898	.13848	.12884	.12000	.11182
32	.15518	.14446	.13461	.12555	.11720
33	.16161	.15068	.14061	.13135	.12284
34	.16828	.15714	.14687	.13739	.12883
35	.17521	.16385	.15337	.14368	.13478
36	.18238	.17083	.16014	.15024	.14100
37	.18982	.17806	.16717	.15707	.14779
38	.19751	.18556	.17446	.16416	.15454
39	.20546	.19331	.18201	.17151	.16177
40	.21366	.20132	.18984	.17914	.16917
41	.22212	.20960	.19793	.18704	.17685
42	.23084	.21814	.20628	.19520	.18481
43	.23982	.22695	.21492	.20365	.19316
44	.24907	.23604	.22383	.21239	.20163
45	.25861	.24542	.23305	.22143	.21051
46	.26843	.25509	.24256	.23079	.21970
47	.27852	.26505	.25237	.24044	.22920
48	.28890	.27531	.26249	.25040	.23901
49	.29955	.28583	.27289	.26066	.24913
50	.31046	.29664	.28358	.27122	.25954
51	.32163	.30772	.29454	.28207	.27023
52	.33306	.31907	.30579	.29321	.28125
53	.34478	.33072	.31736	.30467	.29261
54	.35682	.34270	.32928	.31650	.30434

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate				
	5.6%	5.8%	6.0%	6.2%	6.4%
0	.04690	.04458	.04255	.04076	.03918
1	.02706	.02463	.02249	.02061	.01895
2	.02708	.02455	.02232	.02037	.01864
3	.02775	.02512	.02281	.02077	.01897
4	.02869	.02596	.02355	.02143	.01955
5	.02979	.02696	.02445	.02224	.02028
6	.03104	.02809	.02549	.02318	.02113
7	.03244	.02938	.02667	.02427	.02213
8	.03397	.03079	.02797	.02547	.02324
9	.03563	.03234	.02941	.02680	.02448
10	.03743	.03401	.03096	.02825	.02583
11	.03935	.03581	.03264	.02982	.02729
12	.04140	.03772	.03444	.03150	.02887
13	.04356	.03974	.03633	.03327	.03053
14	.04581	.04185	.03831	.03513	.03228
15	.04815	.04405	.04038	.03708	.03411
16	.05057	.04633	.04252	.03909	.03600
17	.05309	.04869	.04474	.04118	.03797
18	.05570	.05116	.04706	.04336	.04002
19	.05844	.05373	.04948	.04564	.04217
20	.06131	.05645	.05205	.04806	.04445
21	.06433	.05930	.05474	.05061	.04686
22	.06750	.06230	.05758	.05329	.04940
23	.07083	.06546	.06057	.05613	.05209
24	.07434	.06879	.06374	.05913	.05494
25	.07803	.07230	.06707	.06231	.05796
26	.08191	.07600	.07060	.06566	.06115
27	.08599	.07989	.07431	.06920	.06453
28	.09028	.08399	.07823	.07295	.06811
29	.09477	.08829	.08234	.07689	.07187
30	.09948	.09281	.08668	.08104	.07585
31	.10440	.09753	.09121	.08539	.08002
32	.10955	.10248	.09597	.08996	.08442
33	.11493	.10766	.10096	.09476	.08903
34	.12056	.11309	.10619	.09980	.09389
35	.12644	.11878	.11168	.10510	.09900
36	.13259	.12472	.11743	.11065	.10437
37	.13901	.13094	.12344	.11648	.11000
38	.14569	.13742	.12973	.12257	.11590
39	.15264	.14417	.13628	.12893	.12207
40	.15987	.15120	.14312	.13556	.12851
41	.16738	.15851	.15023	.14248	.13523
42	.17516	.16610	.15762	.14968	.14224
43	.18323	.17398	.16530	.15717	.14954
44	.19160	.18216	.17329	.16497	.15715
45	.20028	.19065	.18160	.17309	.16508
46	.20929	.19948	.19024	.18154	.17335
47	.21860	.20862	.19920	.19033	.18195
48	.22825	.21809	.20850	.19945	.19089
49	.23820	.22788	.21812	.20889	.20016
50	.24846	.23799	.22807	.21867	.20977
51	.25904	.24841	.23834	.22878	.21971
52	.26992	.25915	.24893	.23922	.22998
53	.28115	.27025	.25988	.25002	.24064
54	.29277	.28175	.27125	.26125	.25172

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate				
	6.6%	6.8 %	7.0%	7.2%	7.4%
0	.03778	.03665	.03546	.03448	.03362
1	.01749	.01620	.01506	.01404	.01314
2	.01711	.01576	.01457	.01351	.01256
3	.01737	.01596	.01471	.01360	.01261
4	.01788	.01641	.01509	.01393	.01289
5	.01854	.01700	.01562	.01440	.01331
6	.01932	.01770	.01626	.01498	.01383
7	.02023	.01845	.01704	.01569	.01448
8	.02126	.01949	.01791	.01650	.01523
9	.02241	.02056	.01890	.01742	.01609
10	.02367	.02173	.02000	.01844	.01705
11	.02504	.02301	.02120	.01957	.01811
12	.02652	.02440	.02250	.02080	.01926
13	.02808	.02587	.02388	.02210	.02048
14	.02972	.02741	.02534	.02347	.02177
15	.03144	.02903	.02686	.02490	.02313
16	.03321	.03070	.02843	.02638	.02453
17	.03507	.03245	.03008	.02793	.02598
18	.03700	.03427	.03179	.02954	.02751
19	.03903	.03618	.03359	.03124	.02911
20	.04118	.03821	.03551	.03305	.03082
21	.04345	.04036	.03754	.03498	.03264
22	.04586	.04263	.03970	.03702	.03457
23	.04840	.04505	.04198	.03918	.03663
24	.05111	.04762	.04442	.04150	.03883

TABLE E (2)—Continued

1 Age	2 Adjusted payout rate				
	6.6%	6.8%	7.0%	7.2%	7.4%
25	.05398	.05035	.04702	.04397	.04118
26	.05702	.05324	.04978	.04660	.04368
27	.06024	.05631	.05271	.04939	.04635
28	.06366	.05958	.05583	.05237	.04920
29	.06727	.06303	.05912	.05553	.05221
30	.07108	.06668	.06262	.05888	.05542
31	.07508	.07052	.06630	.06241	.05881
32	.07930	.07457	.07019	.06614	.06240
33	.08374	.07884	.07430	.07009	.06619
34	.08842	.08334	.07864	.07427	.07022
35	.09335	.08809	.08322	.07869	.07447
36	.09853	.09310	.08805	.08335	.07897
37	.10397	.09836	.09314	.08827	.08373
38	.10969	.10389	.09849	.09345	.08874
39	.11566	.10969	.10411	.09889	.09401
40	.12192	.11576	.10999	.10460	.09955
41	.12845	.12211	.11616	.11058	.10536
42	.13527	.12873	.12260	.11685	.11144
43	.14238	.13566	.12934	.12340	.11782
44	.14980	.14289	.13639	.13027	.12451
45	.15754	.15044	.14376	.13746	.13151
46	.16563	.15834	.15147	.14499	.13887
47	.17404	.16657	.15952	.15285	.14655
48	.18280	.17515	.16792	.16107	.15459
49	.19190	.18407	.17665	.16963	.16297
50	.20133	.19333	.18574	.17853	.17170
51	.21110	.20292	.19516	.18778	.18077
52	.22121	.21287	.20493	.19738	.19020
53	.23171	.22320	.21510	.20739	.20003
54	.24264	.23398	.22572	.21784	.21032

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate				
	7.6%	7.8%	8.0%	8.2%	8.4%
0	.03284	.03215	.03153	.03097	.03046
1	.01234	.01162	.01098	.01040	.00989
2	.01172	.01097	.01029	.00969	.00915
3	.01172	.01093	.01023	.00959	.00902
4	.01196	.01113	.01038	.00972	.00912
5	.01233	.01146	.01067	.00997	.00933
6	.01281	.01189	.01106	.01032	.00965
7	.01340	.01244	.01157	.01078	.01007
8	.01410	.01308	.01216	.01133	.01058
9	.01490	.01382	.01285	.01198	.01119
10	.01579	.01466	.01364	.01272	.01189
11	.01679	.01560	.01452	.01355	.01267
12	.01787	.01662	.01549	.01446	.01354
13	.01903	.01771	.01652	.01544	.01446
14	.02025	.01886	.01761	.01647	.01543
15	.02152	.02007	.01875	.01755	.01646
16	.02284	.02131	.01992	.01866	.01751
17	.02422	.02261	.02115	.01982	.01861
18	.02565	.02397	.02243	.02103	.01975
19	.02717	.02540	.02378	.02231	.02096
20	.02878	.02693	.02523	.02368	.02226
21	.03050	.02855	.02677	.02514	.02364
22	.03233	.03029	.02842	.02670	.02513
23	.03429	.03214	.03018	.02837	.02671
24	.03638	.03413	.03207	.03017	.02843
25	.03861	.03626	.03409	.03210	.03026
26	.04100	.03853	.03626	.03417	.03224
27	.04354	.04096	.03858	.03638	.03436
28	.04627	.04356	.04107	.03877	.03664
29	.04915	.04633	.04372	.04130	.03907
30	.05223	.04928	.04654	.04401	.04167
31	.05548	.05239	.04953	.04688	.04442
32	.05892	.05570	.05272	.04994	.04736
33	.06258	.05922	.05609	.05319	.05049
34	.06645	.06295	.05969	.05665	.05382
35	.07055	.06690	.06350	.06033	.05737
36	.07490	.07110	.06755	.06424	.06115
37	.07949	.07554	.07184	.06839	.06516
38	.08434	.08023	.07638	.07278	.06941
39	.08944	.08517	.08117	.07742	.07390
40	.09481	.09038	.08622	.08231	.07865
41	.10045	.09585	.09153	.08747	.08365
42	.10637	.10160	.09711	.09289	.08892
43	.11257	.10763	.10298	.09859	.09446
44	.11908	.11397	.10914	.10460	.10030
45	.12591	.12062	.11563	.11092	.10646
46	.13308	.12762	.12246	.11757	.11295
47	.14059	.13495	.12961	.12456	.11977
48	.14845	.14264	.13713	.13190	.12694
49	.15665	.15066	.14498	.13958	.13445
50	.16520	.15904	.15318	.14761	.14231
51	.17410	.16776	.16173	.15599	.15052
52	.18336	.17685	.17064	.16473	.15909
53	.19302	.18634	.17996	.17388	.16807
54	.20315	.19629	.18975	.18350	.17752

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate		
	8.6%	8.8%	9.0%
0	.03001	.02959	.02921
1	.00942	.00900	.00862
2	.00866	.00822	.00782
3	.00851	.00804	.00763
4	.00857	.00808	.00764
5	.00876	.00825	.00778
6	.00904	.00850	.00800
7	.00944	.00886	.00833
8	.00991	.00930	.00874
9	.01048	.00983	.00924
10	.01113	.01045	.00982
11	.01187	.01115	.01048
12	.01269	.01192	.01122
13	.01357	.01275	.01201
14	.01449	.01363	.01285
15	.01546	.01455	.01372
16	.01646	.01550	.01462
17	.01750	.01648	.01556
18	.01858	.01751	.01653
19	.01973	.01860	.01756
20	.02096	.01976	.01867
21	.02227	.02101	.01985
22	.02368	.02235	.02112
23	.02519	.02379	.02249
24	.02682	.02534	.02397
25	.02857	.02701	.02557
26	.03046	.02881	.02729
27	.03248	.03075	.02914
28	.03467	.03284	.03115
29	.03699	.03507	.03329
30	.03949	.03747	.03559
31	.04214	.04001	.03803
32	.04496	.04273	.04065
33	.04797	.04563	.04344
34	.05118	.04872	.04643
35	.05461	.05203	.04962
36	.05825	.05555	.05302
37	.06213	.05930	.05665
38	.06625	.06328	.06050
39	.07060	.06750	.06459
40	.07520	.07196	.06892
41	.08006	.07668	.07349
42	.08517	.08165	.07832
43	.09057	.08689	.08342
44	.09625	.09242	.08880
45	.10225	.09826	.09449
46	.10858	.10444	.10051
47	.11523	.11093	.10685
48	.12224	.11778	.11354
49	.12958	.12496	.12056
50	.13728	.13248	.12792
51	.14531	.14036	.13563
52	.15372	.14859	.14370
53	.16253	.15723	.15218
54	.17181	.16635	.16113

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate				
	4.6%	4.8%	5.0%	5.2%	5.4%
55	.36923	.35507	.34159	.32874	.31650
56	.38200	.36783	.35430	.34140	.32908
57	.39513	.38095	.36741	.35447	.34209
58	.40857	.39441	.38086	.36790	.35549
59	.42227	.40814	.39461	.38164	.36920
60	.43618	.42210	.40860	.39564	.38320
61	.45027	.43626	.42280	.40987	.39744
62	.46456	.45063	.43724	.42435	.41194
63	.47905	.46523	.45192	.43909	.42672
64	.49378	.48009	.46688	.45413	.44182
65	.50877	.49522	.48214	.46949	.45727
66	.52403	.51066	.49772	.48519	.47308
67	.53954	.52636	.51358	.50121	.48922
68	.55525	.54228	.52970	.51749	.50565
69	.57108	.55835	.54598	.53396	.52229
70	.58699	.57451	.56237	.55056	.53908
71	.60296	.59075	.57886	.56729	.55601
72	.61899	.60707	.59546	.58413	.57309
73	.63504	.62344	.61211	.60105	.59026
74	.65106	.63979	.62877	.61800	.60747
75	.66700	.65607	.64538	.63491	.62468
76	.68289	.67233	.66197	.65183	.64190
77	.69876	.68857	.67857	.66878	.65917
78	.71448	.70468	.69506	.68562	.67635

TABLE E (2)—Continued

1 Age	2 Adjusted payout rate 4.6%	4.8%	5.0%	5.2%	5.4%
79	.72990	.72050	.71126	.70219	.69327
80	.74488	.73588	.72703	.71833	.70977
81	.75921	.75061	.74215	.73381	.72561
82	.77285	.76464	.75655	.74857	.74071
83	.78593	.77810	.77038	.76276	.75525
84	.79883	.79139	.78404	.77679	.76963
85	.81194	.80491	.79796	.79109	.78431
86	.82427	.81763	.81106	.80457	.79815
87	.83573	.82947	.82327	.81714	.81107
88	.84637	.84046	.83461	.82881	.82307
89	.85614	.85057	.84504	.83057	.83414
90	.86502	.85975	.85453	.84935	.84421
91	.87300	.86800	.86305	.85814	.85327
92	.88004	.87530	.87059	.86592	.86129
93	.88621	.88168	.87719	.87273	.86831
94	.89159	.88726	.88296	.87869	.87445

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate 5.6%	5.8%	6.0%	6.2%	6.4%
55	.30482	.29369	.28308	.27295	.26328
56	.31732	.30610	.29537	.28513	.27534
57	.33027	.31896	.30814	.29779	.28789
58	.34361	.33223	.32133	.31090	.30089
59	.35728	.34586	.33489	.32438	.31429
60	.37125	.35978	.34877	.33819	.32803
61	.38549	.37399	.36294	.35231	.34209
62	.40000	.38850	.37742	.36676	.35648
63	.41481	.40331	.39223	.38155	.37124
64	.42995	.41848	.40741	.39672	.38640
65	.44546	.43404	.42300	.41233	.40200
66	.46135	.45000	.43901	.42837	.41807
67	.47760	.46634	.45542	.44484	.43458
68	.49416	.48301	.47219	.46168	.45149
69	.51095	.49993	.48922	.47882	.46870
70	.52791	.51704	.50647	.49618	.48617
71	.54503	.53434	.52392	.51377	.50388
72	.56232	.55182	.54157	.53158	.52184
73	.57972	.56943	.55939	.54958	.54000
74	.59719	.58713	.57730	.56769	.55829
75	.61466	.60485	.59526	.58586	.57667
76	.63217	.62263	.61329	.60414	.59517
77	.64974	.64050	.63143	.62254	.61382
78	.66725	.65832	.64955	.64093	.63247
79	.68451	.67589	.66743	.65911	.65093
80	.70135	.69306	.68491	.67689	.66899
81	.71752	.70956	.70173	.69401	.68641
82	.73296	.72533	.71780	.71038	.70307
83	.74783	.74052	.73330	.72618	.71916
84	.76255	.75557	.74868	.74187	.73515
85	.77760	.77098	.76443	.75796	.75157
86	.79180	.78553	.77932	.77318	.76710
87	.80506	.79912	.79323	.78741	.78164
88	.81739	.81177	.80619	.80067	.79521
89	.82876	.82344	.81816	.81292	.80774
90	.83912	.83407	.82906	.82410	.81918
91	.84844	.84364	.83889	.83417	.82949
92	.85669	.85212	.84759	.84309	.83863
93	.86391	.85955	.85522	.85092	.84665
94	.87024	.86605	.86189	.85776	.85366

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

(1) Age	(2) Adjusted payout rate 6.6%	6.8%	7.0%	7.2%	7.4%
55	.25406	.24525	.23684	.22881	.22113
56	.26598	.25704	.24848	.24030	.23247
57	.27841	.26934	.26065	.25233	.24436

TABLE E (2)—Continued

1 Age	2 Adjusted payout rate 6.6%	6.8%	7.0%	7.2%	7.4%
58	.29131	.28212	.27331	.26486	.25675
59	.30460	.29531	.28639	.27782	.26959
60	.31826	.30887	.29984	.29117	.28282
61	.33225	.32277	.31366	.30488	.29643
62	.34658	.33704	.32785	.31898	.31043
63	.36129	.35170	.34244	.33350	.32487
64	.37643	.36679	.35748	.34848	.33978
65	.39202	.38236	.37301	.36397	.35522
66	.40810	.39843	.38907	.38000	.37121
67	.42463	.41498	.40563	.39655	.38774
68	.44158	.43197	.42263	.41357	.40476
69	.45887	.44931	.44002	.43098	.42219
70	.47642	.46694	.45771	.44872	.43996
71	.49424	.48485	.47570	.46678	.45808
72	.51233	.50305	.49400	.48517	.47655
73	.53064	.52150	.51257	.50384	.49532
74	.54911	.54012	.53133	.52274	.51433
75	.56767	.55886	.55023	.54179	.53352
76	.58638	.57777	.56932	.56105	.55293
77	.60526	.59686	.58862	.58054	.57261
78	.62417	.61601	.60799	.60012	.59239
79	.64288	.63498	.62720	.61956	.61205
80	.66123	.65359	.64606	.63866	.63138
81	.67892	.67154	.66428	.65712	.65007
82	.69586	.68875	.68174	.67484	.66802
83	.71223	.70539	.69864	.69198	.68541
84	.72851	.72195	.71548	.70908	.70277
85	.74625	.73900	.73283	.72672	.72069
86	.76110	.75515	.74928	.74346	.73771
87	.77594	.77029	.76470	.75917	.75369
88	.78979	.78443	.77912	.77386	.76865
89	.80260	.79751	.79246	.78746	.78250
90	.81430	.80946	.80466	.79990	.79518
91	.82484	.82024	.81567	.81113	.80663
92	.83420	.82980	.82544	.82111	.81681
93	.84241	.83820	.83402	.82986	.82574
94	.84959	.84554	.84153	.83753	.83357

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate 7.6%	7.8%	8.0%	8.2%	8.4%
55	.21379	.20678	.20007	.19365	.18751
56	.22498	.21781	.21094	.20437	.19806
57	.23672	.22940	.22238	.21565	.20919
58	.24897	.24151	.23434	.22746	.22086
59	.26168	.25408	.24678	.23975	.23300
60	.27479	.26706	.25963	.25248	.24559
61	.28829	.28045	.27289	.26561	.25859
62	.30219	.29424	.28657	.27917	.27203
63	.31654	.30849	.30072	.29321	.28595
64	.33137	.32324	.31538	.30777	.30041
65	.34674	.33854	.33060	.32291	.31546
66	.36269	.35444	.34643	.33867	.33115
67	.37919	.37090	.36285	.35503	.34745
68	.39620	.38789	.37981	.37196	.36432
69	.41364	.40532	.39723	.38936	.38170
70	.43144	.42314	.41505	.40718	.39950
71	.44960	.44133	.43327	.42541	.41774
72	.46813	.45992	.45190	.44407	.43643
73	.48699	.47885	.47089	.46312	.45552
74	.50611	.49806	.49019	.48249	.47495
75	.52542	.51749	.50972	.50211	.49465
76	.54498	.53718	.52954	.52204	.51469
77	.56482	.55718	.54968	.54232	.53510
78	.58480	.57733	.57000	.56280	.55572
79	.60466	.59739	.59025	.58322	.57631
80	.62421	.61715	.61021	.60337	.59664
81	.64313	.63629	.62955	.62291	.61636
82	.66131	.65468	.64815	.64171	.63536
83	.67892	.67252	.66621	.65997	.65382
84	.69653	.69037	.68428	.67827	.67233
85	.71473	.70884	.70301	.69725	.69156
86	.73202	.72640	.72083	.71532	.70987
87	.74827	.74291	.73759	.73233	.72713
88	.76348	.75837	.75331	.74829	.74332
89	.77759	.77272	.76789	.76311	.75836
90	.79050	.78586	.78126	.77669	.77217
91	.80217	.79774	.79335	.78899	.78466
92	.81254	.80831	.80410	.79993	.79578
93	.82165	.81758	.81355	.80954	.80556
94	.82963	.82572	.82183	.81797	.81413

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 8.6%	8.8%	9.0%
55	.18164	.17601	.17062
56	.19203	.18624	.18069
57	.20300	.19705	.19134
58	.21451	.20841	.20255
59	.22651	.22026	.21425
60	.23895	.23256	.22641
61	.25182	.24529	.23900
62	.26514	.25848	.25205
63	.27894	.27216	.26561
64	.29329	.28640	.27973
65	.30825	.30125	.29448
66	.32385	.31677	.30990
67	.34008	.33293	.32598
68	.35691	.34969	.34268
69	.37424	.36698	.35992
70	.39203	.38474	.37764
71	.41026	.40297	.39585
72	.42897	.42168	.41456
73	.44809	.44083	.43373
74	.46757	.46036	.45329
75	.48735	.48020	.47319
76	.50748	.50041	.49348
77	.52801	.52104	.51421
78	.54877	.54194	.53522
79	.56951	.56283	.55625
80	.59001	.58349	.57706
81	.60992	.60356	.59730
82	.62910	.62292	.61683
83	.64775	.64175	.63584
84	.66647	.66067	.65495
85	.68593	.68036	.67486
86	.70448	.69915	.69387
87	.72197	.71687	.71182
88	.73839	.73351	.72868
89	.75366	.74900	.74438
90	.76768	.76322	.75881
91	.78037	.77611	.77189
92	.79167	.78759	.78353
93	.80161	.79768	.79378
94	.81032	.80653	.80277

TABLE F

TABLE, 6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATION AND PAYOUT SEQUENCES

1 Number of months by which the valuation date precedes the first payout: At least	But less than	2 Factors for payout at the end of each: Annual period	Semi-annual period	Quarterly period	Monthly period
	1	1.000000	.985643	.978516	.97384
1	2	.995156	.980869	.973776	.96906
2	3	.990336	.976117	.969059	
3	4	.985538	.971389	.964365	
4	5	.980764	.966684		
5	6	.976014	.962001		
6	7	.971286	.957341		
7	8	.966581			
8	9	.961899			
9	10	.957239			
10	11	.952603			
11	12	.947988			
12		.943396			

§ 1.6012–3 [Amended]

PAR. 2. Section 1.6012–3(a) is amended by adding a new subparagraph (6), at the end thereof, to read as follows:

(6) *Charitable remainder trusts.* Every fiduciary for a charitable remainder annuity trust (as defined in § 1.664–2) or

a charitable remainder unitrust (as defined in § 1.664–3) shall make a return on Form 1041–B for each taxable year of the trust even though it is nonexempt because it has unrelated business taxable income. The return on Form 1041–B shall be made in accordance with the instructions for the form and shall be filed with the designated Internal Revenue office on or before the 15th day of the fourth month following the close of the taxable year of the trust. A copy of the instrument governing the trust, accompanied by a written declaration of the fiduciary under the penalties of perjury that it is a true and complete copy, shall be attached to the return for the first taxable year of the trust.

(Sec. 664, Internal Revenue Code of 1954, 83 Stat. 562; 26 U.S.C. 664; sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: August 16, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

[FR Doc.72-14185 Filed 8-22-72;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that one position of Personal Assistant to the Ambassador at Large and Chief of Mission to the North Atlantic Treaty Organization is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (8–23–72) § 213.3304(a)(12) is added as set out below.

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(12) One Personal Assistant to the Ambassador at Large and Chief of Mission to the North Atlantic Treaty Organization.

* * * * *

(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.72-14398 Filed 8-22-72;8:53 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Deputy Associate Director for Congressional Relations is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (8–23–72), § 213.3373(e)(12) is added as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(e) *Office of the Assistant Director for Congressional and Public Affairs.* * * *

(12) One Deputy Associate Director for Congressional Relations.

* * * * *

(5 U.S.C. sections 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.72-14397 Filed 8-22-72;8:53 am]

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

Subpart B—Appointment, Pay, and Removal of Hearing Examiners

CHANGE OF TITLE TO ADMINISTRATIVE LAW JUDGE

Correction

In F.R. Doc. 72–14069 appearing on page 16787 of the issue for Saturday, August 19, 1972, the effective date in parentheses at the end of the last sentence, now reading, "(8–17–72)", should read, "(8–19–72)".

Title 7—AGRICULTURE

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

[Lime Reg. 26, Amdt. 1]

PART 911—LIMES GROWN IN FLORIDA

Packing and Handling Limitation

On July 27, 1972, notice of rule making was published in the FEDERAL REGISTER (37 F.R. 15000) regarding a proposed amendment of the current container regulation (7 CFR 911.328; 33 F.R. 17308) in effect 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. The proposal was submitted by the Florida Lime Administrative Committee (established pursuant to said amended marketing agreement and order). This is a regulatory marketing program issued pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). No exception to said notice was filed.

The proposal reflects the committee's appraisal of present and prospective marketing conditions for limes. Seasonally heavy shipments of limes are now in progress. The committee recently completed research designed to develop an acceptable range of sizes of containers for marketing limes. The research, conducted in cooperation with handlers of Florida limes, indicated there is a need to amend the current container regulation, to provide two additional sizes of containers for handling specified weights of limes. The Florida Lime Administrative Committee, on July 12, 1972, unanimously recommended the amendment of the aforesaid regulation to provide two additional containers designed to contain 40 pounds and 20 pounds net weight of limes, respectively. Both new containers have larger width and slightly smaller depth dimensions and a different style of construction than the currently authorized containers. Handlers report the containers with dimensions of 13½ x 16½ x 9 inches and 13½ x 16½ x 5 inches are faster and less costly to set up in their packing operations, and they are more efficient in utilization of pallet surface area.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the committee, and other available information, it is hereby found that the amendment hereinafter set forth is in accordance with the provisions of said amended marketing agreement and order; and such amendment will tend to effectuate the declared policy of the act.

Order. The provisions of paragraph (a)(3) of § 911.328 (Lime Regulation 26) are hereby amended by renumbering subdivisions (iii), (iv), (v), (vi), and (vii) as subdivisions (iv), (v), (vii), (viii), and (ix), respectively, and adding new subdivisions (iii) and (vi) to read as follows:

§ 911.328 Lime Regulation 26.

(a) *Order.* * * *

(3) * * *

(iii) Containers with inside dimensions of 13½ x 16½ x 9 inches: *Provided,* That any such container shall contain not less than 40 pounds nor more than 42 pounds net weight of limes.

* * * * *

(vi) Containers with inside dimensions of 13½ x 16½ x 5 inches: *Provided,* That any such container shall contain not less than 20 pounds nor more than 22 pounds net weight of limes.

* * * * *

Dated August 18, 1972, to become effective 30 days after publication in the FEDERAL REGISTER.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-14229 Filed 8-22-72;8:48 am]

[Avocado Order 5, Amdt. 10]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Packing and Handling Limitation

On July 26, 1972, notice of rule making was published in the FEDERAL REGISTER (37 F.R. 14879) regarding a proposed amendment of the current container regulation (7 CFR 915.305; 37 F.R. 11314) in effect pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida. The proposal was submitted by the Avocado Administrative Committee (established pursuant to said amended marketing agreement and order). This is a regulatory marketing program issued pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). No exception to said notice was filed.

The proposal reflects the committee's appraisal of present and prospective marketing conditions for avocados. Seasonal shipments of avocados are now in progress. The committee recently completed research designed to develop an acceptable range of sizes of containers for marketing avocados. The research, conducted in cooperation with handlers of Florida avocados, indicated there is a need to amend § 915.305 Avocado Order 5 (Container Regulation; 7 CFR Part 915; 37 F.R. 11314), of the marketing agreement and order, to provide an additional size container for handling 34 pounds of avocados. The Avocado Administrative Committee, on July 12, 1972, unanimously recommended the amendment of the aforesaid regulation to provide the additional container. The new container has larger width and slightly smaller depth dimensions and a different style of construction than the currently authorized containers. Handlers report that a container with dimensions of 13½ x 16½ x 9 inches is faster and less costly to set up in their packing operations, and it is more efficient in utilization of pallet surface area.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the committee, and other available information, it is hereby found that the amendment hereinafter set forth is in accordance with the provisions of said amended marketing agreement and order; and such amendment will tend to effectuate the declared policy of the act.

Order. The provisions of paragraph (a) (1) (i) of § 915.305 (Avocado Order 5; 7 CFR Part 915; 37 F.R. 11314) are hereby amended to read as follows:

§ 915.305 Avocado Order 5.

(a) *Order.* (1) * * *

(i) Containers with inside dimensions of 11⅜x16x11 or 11x16¾x10 or 13½x16½x9 inches: *Provided,* That (*a*) the net weight of the avocados in such a container shall be not less than 34 pounds, except that for avocados of unnamed varieties, which are avocados that have not been given varietal names, and for Booth 1, Fuchs, and Trapp varieties, such weight shall be not less than 32 pounds; (*b*) with respect to each lot of such containers, not to exceed 10 percent, by count, of the individual containers in the lot may fail to meet the applicable specified weight but no container in such lot may contain a net weight of avocados exceeding 2 pounds less than the specified net weight, and (*c*) each avocado in such container in a lot shall weigh at least 16 ounces, except that not to exceed 10 percent, by count, of the fruit in the lot may fail to meet such weight requirement but not more than double such tolerance shall be permitted for an individual container in the lot.

* * * * *

Dated August 18, 1972, to become effective 30 days after publication in the FEDERAL REGISTER.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-14228 Filed 8-22-72;8:48 am]

PART 981—ALMONDS GROWN IN CALIFORNIA

Crediting for Paid Advertising

Pursuant to the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 37 F.R. 3983), regulating the handling of almonds grown in California (hereinafter collectively referred to as the order), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), an amendment to the Subpart—Administrative Rules and Regulations (7 CFR 981.450–981.481) was issued in the July 14, 1972, issue of the FEDERAL REGISTER (37 F.R. 13790). This amendment appeared as F.R. Doc. 72–10801, Part 981—Handling of Almonds Grown in California, Subpart—Administrative Rules and Regulations, Credit for Paid Advertising and Statement of Assessments Due.

The aforementioned amendment of the administrative rules and regulations prescribes procedures whereby handlers, engaged in advertising activities, may receive credit against their assessment obligations attributable to advertising. Also, the amendment prescribes reporting requirements for handlers to authenticate their advertising activities and claims for credit.

This further amendment to the administrative rules and regulations would correct a typographical error, make an editorial clarification, and amend § 981.441(g) (1) (ii). Currently, § 981.441(g) (1) (ii) requires, among other things, that each claim for published advertising credit must be accompanied with a copy of the publication in which the advertisement was published. This further amendment would provide that, in lieu of a copy of the publication being submitted, the handler report the name of the publication.

After further consideration of all relevant matter presented, it is found that further amendment of § 981.441, as hereinafter set forth, is in accordance with this part, will tend to effectuate the declared policy of the act, and for the reasons hereinafter set forth, should become effective at the time provided herein.

It is therefore ordered, That § 981.441 is hereby amended as follows:

1. In § 981.441(d) (1), in the first sentence, the phrase "payment of" is revised to read "payment to."

2. In § 981.441(g) (1) (ii), the word "a" is deleted and the phrase "the name of the" substituted in lieu thereof.

3. In § 981.441(g) (3), the last two sentences in subparagraph (3) are redesignated subparagraph (4) of paragraph (g).

It is hereby further found that it is impracticable, unnecessary, or contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for making this amendatory action effective at the time hereinafter provided and not postponing the effective time until 30 days after such publication (5 U.S.C. 553) in that: (1) Two amendments are for clarification and editorial purposes; (2) the remaining amendment relieves restrictions; (3) handlers need no additional time to conform their operations; and (4) no useful purpose would be served by postponing the effective time of this action.

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

Dated August 17, 1972, to become effective September 1, 1972.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-14230 Filed 8-22-72;8:48 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

The Subpart—1968 and Subsequent Crops Flue-Cured Tobacco Farm-Stored Loan Program (7 CFR 1421.6000 et seq.) is hereby revised and renumbered for the 1972 and subsequent crops of flue-cured tobacco.

The Flue-cured tobacco market opened on July 25 and it has been determined that adequate warehouse selling space is not available in certain locations. It is essential that regulations for the farm-stored loan program be updated as soon as possible. Accordingly, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date provision of 5

U.S.C. 553 is impractical and contrary to the public interest.

Subpart—1972 and Subsequent Crops Flue-Cured Tobacco Farm-Stored Loan Program

Sec.
1421.400 Purpose.
1421.401 Availability.
1421.402 Eligible tobacco and producers.
1421.403 Release of commodity under loan.
1421.404 Liquidation of loans.
1421.405 Settlement of loans.
1421.406 Farm storage interim loan rate.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended; 1054, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 15 U.S.C. 714b, 714c.

§ 1421.400 Purpose.

This subpart contains the terms and conditions under which CCC will make farm-storage loans to eligible producers of eligible 1972 and subsequent crops Flue-cured tobacco. The terms and conditions of the annual crop year Flue-cured tobacco farm-stored loan supplement, and to the extent the provisions thereof are not inconsistent herewith or not made inapplicable by the provisions of this subpart, the terms and conditions of the Subpart—General Regulations Governing Price Support for 1970 and Subsequent Crops (§§ 1421.1 et seq.) of this part (hereinafter referred to as "the general regulations") are also applicable to farm-stored loans on Flue-cured tobacco. Notwithstanding the provisions of the general regulations, CCC will not make warehouse storage loans to or direct purchases from producers. The tobacco loan program regulations set forth in Part 1464 of this chapter (hereinafter referred to as "the association regulations") contain the terms and conditions under which eligible producers may obtain advances on eligible 1972 and subsequent crop Flue-cured tobacco from a cooperative marketing association which, acting in behalf of such producers collectively, will obtain warehouse storage loans from CCC.

§ 1421.401 Availability.

Producers desiring a farm storage loan on Flue-cured tobacco shall request a loan at the county ASCS office not later than the date set forth in the annual crop year supplement. Producers obtaining a loan shall execute a farm-storage note, chattel mortgage, and security agreement and a tobacco addendum amending sections 6 and 7 thereof.

§ 1421.402 Eligible tobacco and producers.

(a) *General.* In order to be eligible for a farm-storage loan on Flue-cured tobacco, the producer and the tobacco must meet the requirements of this section in addition to the other eligibility requirements of § 1421.4 of the general regulations.

(b) *Eligible producer.* The tobacco must have been produced by an eligible producer, as defined in § 1421.3 of the general regulations and § 1464.7 of the association regulations in this subchapter.

(c) *Eligible tobacco.* Flue-cured tobacco is eligible for a farm-storage loan under this subpart if it meets the eligibility requirements of § 1464.8 of the association regulations in this subchapter.

§ 1421.403 Release of commodity under loan.

(a) Notwithstanding the provision of § 1421.19 of the general regulations, prior approval from the county committee will not be required in order for a producer to sell his tobacco or to offer it to a cooperative association for a price support advance under the association regulations.

(b) A producer who has received a loan under this subpart, before accepting payment upon a sale of his tobacco, must advise the buyer or the marketing recorder as to whether or not such tobacco is security for a farm-storage loan; and, if such tobacco is security for a farm-storage loan, the proceeds of sale shall be forwarded by the buyer or marketing recorder to the county ASCS office which made the loan to be applied in liquidation of the loan.

§ 1421.404 Liquidation of loans.

Loans may be liquidated by (1) repayment of the loan amount plus interest on or before the maturity date specified in the annual crop year supplement, or (2) delivery as directed by CCC, as specified in the annual crop year supplement, to a cooperative association of a quantity of Flue-cured tobacco having a settlement value equal to the outstanding balance of the loan.

§ 1421.405 Settlement of loans.

For the purposes of this subpart, the settlement value of tobacco delivered to a cooperative association shall be (a) the amount which may be advanced to the producer with respect to such tobacco under the association regulations, or (b) if the tobacco delivered is of grade or quality which is not eligible for an advance under the association regulations, the market value of the tobacco, as determined by CCC. For the purposes of § 1421.16 of the general regulations, the settlement value shall be the amount of the farm-storage loan with respect to the tobacco involved in the loss, less salvage. If the tobacco delivered is of a grade eligible for a price-support loan under the association regulations, a price-support advance will be made by the cooperative association to the producer under the association regulations and the proceeds of the advance, to the extent necessary, will be applied to repayment of the principal of the loan made hereunder. If the settlement value of the tobacco delivered by the producer to the association is less than the amount due on the principal on the loan, the amount of the deficiency, plus interest thereon computed in accordance with the provisions of the note, shall be paid by the producer to the county office which approved the loan, unless the deficiency is one which will be assumed by CCC pursuant to the terms of the note.

§ 1421.406 Farm storage interim loan rate.

The farm storage interim loan rate for Flue-cured tobacco shall be that set forth in the annual crop year supplement.

Effective date. Upon publication in the FEDERAL REGISTER (8–23–72).

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

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.72–14284 Filed 8–22–72;8:53 am]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1972 Crop Flue-Cured Tobacco Farm-Stored Loan Supplement

This subpart constitutes the annual crop year supplement to the *Subpart—1972 and subsequent crops flue-cured tobacco farm-stored loan program* (7 CFR 400 et seq.).

The Flue-cured tobacco market opened on July 25 and it has been determined that adequate warehouse selling space is not available in certain locations. It is essential that terms and conditions for the 1972 farm-stored loan program be published as soon as possible. Accordingly, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date provision of 5 U.S.C. 553 is impractical and contrary to the public interest.

Sec.
1421.420 Availability.
1421.421 Farm storage interim loan rate.
1421.422 Rate of interest.
1421.423 Liquidation of loans.
1421.424 Delivery charge.
1421.425 Maturity of loans.

AUTHORITY: The provisions of this subpart issued under Sec. 4, 62 Stat. 1070, as amended; sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended; 1054, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 15 U.S.C. 714b, 714c.

§ 1421.420 Availability.

A producer desiring a farm storage loan on his eligible Flue-cured tobacco stored in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia must request a loan at the county ASCS office not later than November 1, 1972.

§ 1421.421 Farm storage interim loan rate.

The loan will be made at a rate of 55 cents per pound for regular varieties or 28 cents per pound on discount varieties. The quantity of eligible tobacco tendered as security for a loan under this subpart if such tobacco is estimated to be equal to or better than the average grade composition of a normal crop. If the CCC representative estimates the grade composition to be below such average quality, the rate of loan shall be 15 cents less than the average loan rate for which he estimates such tobacco would qualify.

§ 1421.422 Rate of interest.

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

§ 1421.423 Liquidation of loans.

Section 1421.19 of the general regulations shall not apply to this program. Loans shall be liquidated by repayment of the amount loaned, plus interest, on or before maturity to the county office which approved the loan, either directly by the producer or by the buyer or the Marketing Recorder upon sale of tobacco securing the loan; or by delivery, as directed by CCC, during a period of approximately 1 week beginning immediately after the close of the 1972 auction marketing season to a cooperative association designated by CCC, of a quantity of Flue-cured tobacco eligible for price support having a settlement value equal to the outstanding principal balance of the loan.

Notwithstanding the provisions of § 1421.23 of the general regulations, no deduction for storage charges will be made if the tobacco is delivered during this period. The association will advise producers of the time and place at which the tobacco is to be delivered in liquidation of farm storage loans and will determine the settlement value of the tobacco delivered on the basis of the grade and quality thereof as determined by the inspection service of the Agricultural Marketing Service, USDA.

§ 1421.424 Delivery charge.

Notwithstanding the provisions of § 1421.11 of the general regulations, there shall be no delivery charge on the tobacco delivered to the association.

§ 1421.425 Maturity of loans.

Unless demand is made earlier, farm storage loans on Flue-cured tobacco will mature on December 1, 1972.

Effective date. Upon publication in the FEDERAL REGISTER (8–23–72).

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

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.72–14283 Filed 8–22–72;8:53 am]

Title 12—BANKS AND BANKING

Chapter VI—Farm Credit Administration

PART 612—PERSONNEL ADMINISTRATION

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

Nondiscrimination in Employment, Lending, and Other Services

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising § 612.2070 and adding § 612.2071 in Part 612, and by revising § 613.3140 and adding §§ 613.3150, 613.3160, and 613.3170 in Part 613, to read as follows:

§ 612.2070 Equal Employment Opportunity.

It shall be the policy of all banks and associations to provide all employees and all qualified and eligible applicants equal employment opportunity in accordance with § 612.2071 without regard to race, color, religion, sex, age, or national origin. Under direction of the district board the president of each bank and the board of directors of each association, and under the direction of each association board the chief administrative officer of the association shall exercise personal leadership in establishing, maintaining, and carrying out a positive, continuing program designed to promote equal opportunity in the organization's employment practices.

§ 612.2071 Nondiscrimination in employment.

(a) No Farm Credit institution shall because of an individual's race, color, religion, sex, age, or national origin:

(1) Fail or refuse to hire such individual;

(2) Discharge such individual;

(3) Discriminate against such individual in training or retraining, including on-the-job training, program;

(4) Otherwise discriminate against such individual with respect to compensation, promotion, terms, conditions, or privileges of employment;

(5) Limit, segregate, or classify such individual in any way that would deprive or tend to deprive him of employment opportunities or otherwise adversely affect his status as an employee; or

(6) Discriminate against such individual because he has opposed any employment practice made unlawful by Federal, State, or local law, or, in good faith, made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning such practice by any lawfully constituted authority.

(b) No Farm Credit institution shall print, publish, or cause to be printed or published any notice or advertisement relating to employment indicating any preference, limitation, specification, or discrimination by such institution based on race, color, religion, sex, age, or national origin.

(c) Until March 24, 1972, each Farm Credit institution which has 25 or more employees, and thereafter each Farm Credit institution which has 15 or more employees shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members customarily are posted a notice to be prepared or approved by the Equal Employment Opportunity Commission setting forth excerpts from or summaries of, pertinent provisions of the Equal Employment Opportunity provisions of the Civil Rights Act of 1964 and information pertinent to filing a complaint.

(d) This section shall not apply in any case in which the Federal Equal Employment Opportunities law is made inapplicable by 42 U.S.C. 2000e–2.

§ 613.3140 Policy.

The Federal Farm Credit Board, at its February 1969 meeting, adopted the following resolution:

Resolved, that it is confirmed to be the policy of the Federal Farm Credit Board that there shall be no discrimination because of race, color, religion, or national origin by the banks and associations which operate under the supervision of the Farm Credit Administration, i.e., Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations, and banks for cooperatives, either as is now proscribed for the financing of housing by section 805 of the Civil Rights Act of 1968 or with respect to the availability of loans generally from such banks and associations.

§ 613.3150 Nondiscrimination in lending and other services.

No Farm Credit institution shall, because of the race, color, religion, or national origin of an eligible person deny a loan, whether it is for the purpose of purchasing, constructing, improving, repairing, or maintaining a rural residence or is for other eligible purposes, or refuse to allow, receive, or consider any application, request, or inquiry with respect to a loan, or refuse to perform any other service it customarily makes available to borrowers, applicants, and members, or discriminate in fixing the amount, interest rate, duration, application procedures, collection or enforcement procedures, or other terms or conditions of a loan or other service.

§ 613.3160 Nondiscriminatory advertising.

(a) A Farm Credit institution that directly or through third parties engages in any form of advertising shall not use words, phrases, symbols, directions, forms, or models in such advertising which imply or suggest a policy of discrimination or exclusion in violation of the provisions of Title VIII of the Civil Rights Act of 1968.

(b) Written advertisements relating to rural housing shall include a facsimile of the following logotype and legend:

EQUAL HOUSING LENDER

§ 613.3170 Equal Housing Lender Posters.

(a) Each Farm Credit institution that makes rural residence loans shall post and maintain one or more Equal Housing Lender Posters in the lobby of each of its offices in a prominent place or places readily apparent to all persons seeking such loans.

(b) The poster shall be at least 11 by 14 inches in size, and shall bear the logotype and legend set forth in § 613.3160 (b), and the following text:

We do business in accordance with the Federal "Fair Housing Law".

It is illegal, because of race, color, religion, or national origin, to:

Deny a loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or

Discriminate in fixing the amount, interest rate, duration, application procedures, or other terms or conditions of such a loan.

If you believe you have been discriminated against you may discuss the matter with the management of this institution. You may also send a complaint to:

Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

or call your local HUD office.

MILFORD F. DAILEY,
Chairman,
Federal Farm Credit Board.

[FR Doc.72-14157 Filed 8-22-72;8:48 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter III—Economic Development Administration, Department of Commerce

PART 302—DESIGNATION OF AREAS

Miscellaneous Amendments

The notice of proposed rule making for § 302.2 appearing on page 12151 of the issue for June 20, 1972, is adopted without any changes to read as set forth below:

§ 302.2 Additional standards for designation.

* * * * *

(b) Those additional areas which have an annual family income of not in excess of 50 percent of the national median as determined by the most recent available decennial census;

* * * * *

(e) Pursuant to section 401(a)(6) of the Act, those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which have any one of the following conditions:

(1) A large concentration of low-income persons;

(2) Rural areas having substantial outmigration;

(3) Substantial unemployment; or

(4) An actual or threatened abrupt rise in unemployment due to the closing or curtailment of a major source of employment.

(f) Those additional areas which have suffered a significant decline in per capita employment. Such additional areas shall be defined as those having a decline in per capita employment of more than 1.2 percentage points between 1960 and 1970, and which also have net outmigration during the same period, as determined by the 1970 census.

* * * * *

The notice of proposed rule making for Subpart C appearing on page 12151 of the issue for June 20, 1972, is changed to read as set forth below:

Part 302, Subpart C of Chapter III, Title 13 of the Code of Federal Regulations (31 F.R. 11294, Aug. 26, 1966, as amended at 31 F.R. 16674, Dec. 30, 1966; 35 F.R. 13282, Aug. 20, 1970) is revised to read as follows:

Subpart C—Limitations on Designation of Areas

§ 302.20 General.

The Assistant Secretary will determine the size and boundaries of the areas designated in accordance with §§ 302.1, 302.2, and 302.10, subject to the following limitations:

(a) Generally, no area will be designated until the Assistant Secretary has received a request for designation and has approved an Overall Economic Development Program (OEDP) for such areas except:

(1) Those areas qualified in accordance with § 302.2(d) may be designated subject to the receipt of an acceptable OEDP within 6 months following such conditional designation or within such period as the Assistant Secretary may grant for good cause; and

(2) Those areas qualified in accordance with § 302.2(e) shall not be required to file an Overall Economic Development Program.

(b) Any area, other than those areas eligible for designation pursuant to § 302.2(e) which does not submit an acceptable OEDP within 6 months after notification of its eligibility for designation shall not thereafter be designated prior to the next annual review of eligibility; however, such period may be extended for good cause;

(c) No area will be designated which does not have a population of at least 1,500 persons, except for areas designated in accordance with § 302.2 (c) and (e); and

(d) Except for areas designated in accordance with § 302.2 (c), (d), and (e) no area will be designated which is smaller than a "labor area" (as defined by the Secretary of Labor), a county, or a municipality with a population of over 250,000 persons, whichever the Assistant Secretary deems appropriate.

Effective: August 19, 1972.

ROBERT A. PODESTA,
Assistant Secretary
for Economic Development.

AUGUST 18, 1972.

[FR Doc.72-14289 Filed 8-22-72;8:53 am]

Chapter IV—Emergency Loan Guarantee Board

PART 400—RULES OF ORGANIZATION

Title 13 is amended by adding a new Chapter IV as follows:

Sec.
400.1 Basis.
400.2 Composition.
400.3 Meetings.
400.4 Staff.
400.5 Federal Reserve Banks as fiscal agents.
400.6 Delegations of authority.

AUTHORITY: The provisions of this Part 400 issued under Public Law 92-70, 92d Congress, 1st Sess., 85 Stat. 178.

§ 400.1 Basis.

These rules are issued by the Emergency Loan Guarantee Board (the Board) pursuant to the requirement of section 552 of Title 5 of the United States Code that every agency shall publish in the FEDERAL REGISTER a description of its central and field organization.

§ 400.2 Composition.

The Board consists of the Secretary of the Treasury, who acts as chairman, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Securities and Exchange Commission. All decisions of the Board are made by majority vote. The Board exercises authority conferred upon it by the Emergency Loan Guarantee Act of August 9, 1971 (Public Law 92-70) (the Act).

§ 400.3 Meetings.

The Board meets, on call of the Chairman, at such times as are necessary in order to consider matters requiring action by the Board. An agenda for each meeting is distributed to members of the Board at least 5 days prior to the date of the meeting, together with copies of material relevant to the agenda items. If any persons representing a borrowing enterprise or a lending institution is invited to appear before the Board at a scheduled meeting, such person is requested to submit a written statement in advance of such meeting regarding the matters to be presented by him.

§ 400.4 Staff.

(a) *Executive Director and General Counsel.* The Executive Director and General Counsel of the Board advises and assists the Board in carrying out its responsibilities under the Act, provides general direction with respect to the administration of the Board's functions, and furnishes the Board with legal advice as occasion requires.

(b) *Secretary.* The Secretary of the Board advises and assists the Board in carrying out its responsibilities under the Act, prepares minutes of each meeting of the Board, has custody of all records of the Board, and performs such other duties as the Board may require.

(c) *Others.* Members of the staffs of the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission, as designated by the heads of those agencies, perform such services as may be appropriate in assisting the Board in the discharge of its responsibilities.

§ 400.5 Federal Reserve Banks as fiscal agents.

The Board has no field organization. However, as authorized by the Act, the Board utilizes the services of the Federal Reserve Banks as fiscal agents in the performance of its functions. Any Reserve Bank requested by the Board to act as fiscal agent in connection with a guaranteed loan is reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

§ 400.6 Delegations of authority.

As occasion warrants, the Board delegates certain functions not required by statute to be exercised by it to the Executive Director and General Counsel, the Secretary, or a Reserve Bank acting as fiscal agent of the Board, including authority to receive applications, notices, and other documents, to execute and deliver agreements, to give consents, approvals, waivers, certificates, requests, and demands pursuant to any credit, pledge, or guarantee agreement, to communicate with applicants, and to discharge administrative duties. Any such delegation of authority is conferred by resolution of the Board.

Dated: August 15, 1972.

TIMOTHY G. GREENE,
Secretary,
Emergency Loan Guarantee Board.

[FR Doc.72-14213 Filed 8-22-72;8:45 am]

PART 401—RULES OF PROCEDURE

Title 13 is amended by adding a new Part 401 to Chapter IV as follows:

Sec.
401.1 Basis.
401.2 Eligibility for guarantees of loans.
401.3 Applications.
401.4 Processing of applications.
401.5 Rates and fees.
401.6 Federal Reserve Banks as fiscal agents.
401.7 Reports.

AUTHORITY: The provisions of this Part 401 issued under Public Law 92-70, 92d Congress, 1st Sess.

§ 401.1 Basis.

This part is issued pursuant to section 552 of Title 5 of the United States Code, which requires that every agency shall publish in the FEDERAL REGISTER statements as to the general course and method by which its functions are channeled and determined and rules of procedure and descriptions of forms available or the places at which such forms may be obtained.

§ 401.2 Eligibility for guarantee of loans.

Under the Emergency Loan Guarantee Act of August 9, 1971 (Public Law 92-70) (the Act), the Emergency Loan Guarantee Board (the Board) is authorized, on such terms and conditions as it deems appropriate, to guarantee, or make commitments to guarantee, lending institutions against loss of principal or interest on loans that meet the requirements of the Act.[1] Among other requirements, a loan may be guaranteed by the Board only if—

(a) The Board finds that

(1) The loan is needed to enable the borrower to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof,

(2) Credit is not otherwise available to the borrower under reasonable terms or conditions, and

(3) The prospective earning power of the borrower, together with the character and value of the security pledged, furnish reasonable assurance that it will be able to repay the loan within the time fixed and afford reasonable protection to the United States;

(b) The lending institution certifies that it would not make the loan without such guarantee; and

(c) The loan is payable in not more than 5 years, subject to renewal for not more than an additional 3 years.

§ 401.3 Applications.

(a) Where a lending institution and a prospective borrower have agreed upon the terms of a proposed loan, such lending institution or borrower may submit to the Board, in care of the Executive Director and General Counsel of the Board, a formal application for a loan guarantee in accordance with the provisions of the Act. An application so received by the Executive Director and General Counsel shall be reviewed preliminarily to determine whether, on its fact, it complies with the applicable statutory requirements. The Executive Director and General Counsel is authorized to reject those applications which, in his opinion, do not so comply. Following such review, the application may be referred by the Executive Director and General Counsel to a Federal Reserve Bank for further review and analysis. Any Federal Reserve Bank to which the application is referred shall receive such application as fiscal agent on behalf of the Board. No standard form of application has been prescribed and an application may be in letter form. Instructions in preparing an application may be obtained from the Board or from a Federal Reserve Bank acting as fiscal agent of the Board.

(b) Each application should be accompanied by a written statement covering the following matters:

(1) A complete and full description of the nature of the borrower's business and the probable effect on the economy or employment from the failure of the borrower to obtain the guaranteed loan;

(2) A complete description of the circumstances giving rise to the need for a guaranteed loan and the purposes for which the proceeds of the loan are to be used;

(3) Efforts made by the borrower to obtain credit from other lending institutions including the names of all banks or financial institutions from which additional credit has been sought, the dates upon which such credit was sought, and whether such credit was definitely denied and the reasons, if any, given for such denial;

(4) A list of all banks with which the borrower has had banking relations during the preceding year, either as a depositor or as a borrower;

(5) Detailed data regarding the current and projected financial condition of the borrower during the period in which the guaranteed loan is to be outstanding together with a proposed expenditure plan showing the manner in which the proceeds of the loan will be used;

(6) A list and description of any assets available for collateral on the loan guarantee together with a statement regarding the approximate value of any such collateral;

(7) An agreement by the borrower to (i) furnish adidtional credit information when requested, and (ii) submit to credit investigations by representatives of the Board, including inspecting and copying all accounts, books, records, memoranda, correspondence, and other documents concerning any matter which may bear upon (*a*) the ablity to repay the loan within the time that might be fixed therefor; (*b*) the interests that the United States would have in the property of the borrower; and (*c*) assurance of reasonable protection to the United States; and

(8) Information with respect to such other matters as the Board or its Executive Director and General Counsel may specifically require.

§ 401.4 Processing of applications.

(a) Any application referred to a Federal Reserve Bank by the Executive Director and General Counsel of the Board may be reviewed by that Bank, as fiscal agent of the Board, to evaluate the borrower's credit-worthiness. In connection with its evaluation, a Reserve Bank shall request such additional information from the borrower or financial institution as it may consider necessary to complete its study. Upon completion of its investigation and study, the Federal Reserve Bank will transmit to the Board such reports and comments regarding the creditworthiness of the borrrower as the Board may request.

(b) Any applicant that has filed for a loan guarantee in good faith may request that the Board consider its application at a scheduled meeting of the Board. The Board may approve an application for a loan guarantee under the provisions of the Act only if it makes the required statutory findings and if all other applicable statutory requirements are met.

(c) If the application is approved by the Board, the Board will authorize the execution of a guarantee agreement in such form as is satisfactory to the Board.

[1] Under the Act, the maximum obligation of the Board under all outstanding guaranteed loans may not exceed $250 million at any time. The Board's authority under the Act, unless extended, terminates December 31, 1973.

The borrower, as well as the lending institution or institutions (or agent banks acting for the lending institutions), may be required to be a party to that agreement and to execute the same.

§ 401.5 Rates and fees.

For loans guaranteed under the Act, the Board will prescribe a rate of interest payable to the lending institutions that takes into account the reduction in risk afforded by the loan guarantee and the rates charged by lending institutions on otherwise comparable loans. The Board will also prescribe and collect a guarantee fee, in connection with each loan guaranteed under the Act, which shall reflect the Government's administrative expense in making the guarantee and the risk assumed by the Government, and shall not be less than an amount which, when added to the amount of interest payable to the lender of such loan, produces a total charge appropriate for loan agreements of comparable risk and maturity if supplied by the normal capital markets.

§ 401.6 Federal Reserve Banks as fiscal agents.

A Federal Reserve Bank requested by the Board to act as fiscal agent on behalf of the Board in connection with a guaranteed loan shall be responsible, in the event the guarantee is approved by the Board, for performing such fiscal agency services as the Board may request. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

§ 401.7 Reports.

All reports and advices required of the lending institution or institutions and the borrower in connection with a guaranteed loan and all requests made to the Board will be transmitted directly to the Board with copies to the fiscal agent.

Dated: August 14, 1972.

TIMOTHY G. GREENE,
Secretary,
Emergency Loan Guarantee Board.

[FR Doc.72-14214 Filed 8-22-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-EA-32]

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

Designation of Transition Area

On June 3, 1972, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 11188) stating that the Federal Aviation Administration (FAA) was considering amending Part 71 of the Federal Aviation Regulations that would designate a transition area at Westhampton Beach, N.Y.

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., November 9, 1972, as hereinafter set forth.

In 71.181 (37 F.R. 2143) the Westhampton Beach, N.Y., transition area is added as follows:

WESTHAMPTON BEACH, N.Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Suffolk County Airport, Westhampton Beach, N.Y. (latitude 40°50'39" N., longitude 72°37'49" W.)

(Sec. 307(a) and 1110 Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510 and Executive Order 10854 (34 F.R. 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

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

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

[FR Doc.72-14198 Filed 8-22-72;8:46 am]

[Airspace Docket No. 70-WA-42C]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Area High Route

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to alter the eastern extremity of J819R (Boston, Mass., to Chicago, Ill.).

An amendment to Part 75 of the Federal Aviation Regulations was published in the FEDERAL REGISTER on July 29, 1972 (37 F.R. 15293), which in part designated J819R to extend between Boston and Chicago, effective on October 12, 1972. This route was established to begin at Celtic, Mass. (lat. 42°40'00" N., long. 71°13'00" W.), to coincide with the termination point of a Boston Standard Instrument Departure (SID). Subsequent to the publication of this amendment, the Boston SID termination point was moved to the Merrimack, N.H., intersection (lat. 42°41'31" N., long. 71°24'10" W.). Therefore, action is taken herein to relocate the eastern end of J819R to coincide with the revised Boston SID.

This amendment does not create any new route segment or realign any existing route segment, but merely deletes the easternmost 10 miles of J819R.

Since this amendment is minor in nature and no substantive change in the regulations or in their effect on the operation of aircraft is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0902 G.m.t., October 12, 1972, as hereinafter set forth.

Section 75.400 (37 F.R. 2400 and 15293) is amended as follows: In J819R "Celtic, Mass., 42°40'00"/71°13'00" Putnam, Conn.", is deleted and "Merrimack, N.H., 42°41'31"/71°24'10" Putnam, Conn." 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 August 16, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-14199 Filed 8-22-72;8:46 am]

Title 20—EMPLOYEES' BENEFITS

Chapter I—Bureau of Employees' Compensation, Department of Labor

SUBCHAPTER J—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

PART 101—CRITERIA FOR DETERMINING WHETHER STATE WORKMEN'S COMPENSATION LAWS PROVIDE ADEQUATE COVERAGE FOR PNEUMOCONIOSIS

Transfer of Regulations

The regulations appearing in this Part 101 of Subchapter J, Chapter I, Title 20, Code of Federal Regulations are hereby transferred to Chapter VI of Title 20, Code of Federal Regulations, as Part 722, and Part 101 of Title 20 is hereby vacated.

See the separate document published this date reserving Chapter VI and placing these transferred regulations within that chapter.

This transfer is effective upon publication in the FEDERAL REGISTER (8-23-72).

Signed at Washington, D.C., this 18th day of August 1972.

RICHARD J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72-14277 Filed 8-22-72;8:52 am]

Chapter VI—Employment Standards Administration, Department of Labor

SUBCHAPTER B—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, AS AMENDED

PART 722—CRITERIA FOR DETERMINING WHETHER STATE WORKMEN'S COMPENSATION LAWS PROVIDE ADEQUATE COVERAGE FOR PNEUMOCONIOSIS

Transfer of Regulations

Pursuant to section 421(b)(1) of the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 795, the Secretary of Labor issued regulations governing the criteria for determining whether state workmen's compensation laws provide adequate coverage for pneumoconiosis on March 12, 1971, 36 F.R. 5040. The regulations were published as Part 1520 of

Chapter XIII, Bureau of Labor Standards, of Title 29, Code of Federal Regulations.

By Secretary's Order No. 12–71, 36 F.R. 8754, and Secretary's Order No. 13–71, 36 F.R. 8755, the Bureau of Labor Standards was abolished and the operational responsibilities theretofore assigned to said Bureau and to its Director were reassigned, as appropriate, to the Assistant Secretary for Occupational Health and Safety or to the Assistant Secretary for Employment Standards. Among those responsibilities reassigned to the Assistant Secretary for Employment Standards by Secretary's Order No. 13–71 are those under the Federal Coal Mine Health and Safety Act. By Secretary's Order No. 15–71, 36 F.R. 8756, the Assistant Secretary for Employment Standards redelegated his authority and reassigned his responsibilities to the Deputy Assistant Secretary/Administrator, Employment Standards Administration, who is also the Administrator, Wage and Hour Division.

Accordingly, Chapter XIII, Bureau of Labor Standards, of Title 29, Code of Federal Regulations, was vacated, 36 F.R. 25158 and 36 F.R. 25229. Part 1520, pertaining to the Federal Coal Mine Health and Safety Act was transferred January 19, 1972, 37 F.R. 1166, to Chapter I, Bureau of Employees' Compensation, of Title 20, Employees' Benefits, and redesignated as Part 101 of Subchapter J.

Thereafter, the Act was amended by the Black Lung Benefits Act of 1972, 86 Stat. 150. As amended, it is necessary that numerous new regulations be issued. In anticipation of that action, Chapter VI of Title 20, CFR, designated Employment Standards Administration, is hereby reserved for that purpose and for such other purposes as the Secretary of Labor may deem appropriate.

Further, for the purpose of collecting in one place all the Department's regulations issued under said Act, as amended, the above-mentioned criteria issued under section 421(b)(1) of said Act have been transferred from Chapter I, Title 20, to this chapter by a separate document published this date in the FEDERAL REGISTER.

As transferred, Subchapter J is redesignated as Subchapter B, the title being changed by the addition of the words "as amended" at the end thereof, Part 101 is redesignated as Part 722, the title being retained, and §§ 101.1, 101.2, and 101.3 are redesignated as §§ 722.101, 722.102, and 722.103, the titles being retained.

The only change in text, made necessary by this transfer, is as follows: In the fourth line of redesignated § 722.103 (a)(3), the cross-reference to § 101.2(e) should read "see § 722.102(e)."

This transfer and redesignation is effective upon publication in the FEDERAL REGISTER (8–23–72).

Signed at Washington, D.C. this 18th day of August 1972.

RICHARD J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72–14278 Filed 8–22–72;8:52 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 491–72]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart B—Office of the Attorney General

ESTABLISHMENT OF OFFICE OF NATIONAL NARCOTICS INTELLIGENCE

Executive Order No. 11676 of July 27, 1972, provides for the development and maintenance of a National Narcotics Intelligence System. It directs the Attorney General to provide for the establishment within the Department of Justice of an Office of National Narcotics Intelligence to be headed by a Director. The purpose of this order is to implement the directives and purposes of Executive Order No. 11676.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 5 U.S.C. 301, the Comprehensive Drug Abuse Prevention and Control Act of 1970, and Executive Order No. 11676 of July 27, 1972, Subpart B of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new § 0.12:

§ 0.12 Office of National Narcotics Intelligence.

There shall be in the Office of the Attorney General an Office of National Narcotics Intelligence, to be headed by a Director. Subject to the general supervision and direction of the Attorney General, the Director shall be responsible for the development and maintenance of a National Narcotics Intelligence System in cooperation with Federal, State, and local officials, and may provide narcotics intelligence to any Federal, State, or local official that the Director determines has a legitimate official need to have access to such intelligence. The Director shall cooperate with the Director of the Office of Drug Abuse Law Enforcement in preventing drug abuse in the United States.

Dated: August 16, 1972.

RICHARD G. KLEINDIENST,
Attorney General.

[FR Doc.72–14205 Filed 8–22–72;8:46 am]

[Directive No. 31–72]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart Y—Authority To Compromise and Close Civil Claims and Responsibility for Judgments, Fines, Penalties, and Forfeitures

DELEGATION OF AUTHORITY WITH RESPECT TO ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT

AUGUST 14, 1972.

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly §§ 0.45, 0.160, 0.162, 0.164, 0.168, and 0.172: *It is hereby ordered*, as follows:

The authority delegated to the Assistant Attorney General in charge of the Civil Division to adjust, determine, compromise, and settle claims involving the Department of Justice under section 2672 of title 28, U.S.C., relating to the administrative settlement of Federal Tort Claims, is hereby redelegated to the Chief of the Tort Section:

(a) If the amount to be paid on a single claim does not exceed $50,000 and,

(b) No question of Department or Government policy is or may be involved and,

(c) The Bureau, Service, Division, Board, Office, or Administration whose activity gives rise to the claim has not interposed objection to settlement.

Effective date. The provisions of this directive shall be effective upon the date of publication of this directive in the FEDERAL REGISTER (8–23–72).

Dated: August 16, 1972.

HARLINGTON WOOD, JR.,
Assistant Attorney General, Civil Division.

Approved:

RICHARD G. KLEINDIENST,
Attorney General.

[FR Doc.72–14206 Filed 8–22–72;8:47 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER C—MEDICAL CARE AND EXAMINATIONS

PART 34—MEDICAL EXAMINATIONS OF ALIENS

Scope of Examinations; Tuberculosis; Syphilis

A notice was published in the FEDERAL REGISTER on May 24, 1972, 37 F.R. 10515, proposing the amendment of § 34.4 of Part 34, Title 42, Code of Federal Regulations in order to modify the requirement for chest X-ray examinations and to reflect more accurately current organizational structure. The proposal was to eliminate the requirement, generally, for a chest X-ray examination for aliens in the 10–14 year age group, but to retain it where there is evidence of exposure to a known case of tuberculosis, or other reason to suspect infection, thus serving public health needs while reducing unnecessary radiation exposure and applicants' costs and expediting completion of the visa medical examination process. A 30-day period was prescribed for submittal of data, views, and arguments. Review of comments received did not require revision of the proposal.

Accordingly, after due consideration, the proposed amendments as set forth below, are hereby adopted, without

change, to be effective 30 days after publication in the FEDERAL REGISTER (8–23–72).

Dated: August 9, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: August 16, 1972.

ELLIOT L. RICHARDSON,
Secretary.

1. Revise § 34.4(b) of Part 34, Title 42, Code of Federal Regulations, by redesignating subparagraphs (2), (3), and (4) as subparagraphs (3), (4), and (5) respectively.

2. Amend § 34.4(b)(1) to read as follows:

(1) *Persons subject to requirement for chest X-ray examination and serologic test.* Except as provided in subparagraph (2) of this paragraph, a chest X-ray examination for tuberculosis and a serologic test for syphilis shall be required as part of the examination of:

(i) All applicants for immigrant visas;

(ii) All students and exchange visitors who are required by a consular authority to have a medical examination upon application for a nonimmigrant visa;

(iii) All other applicants for a nonimmigrant visa who are required by a consular authority to have a medical examination if such X-ray examination and serologic test are considered necessary by the medical examiner; and

(iv) All aliens outside the United States who apply for conditional entry and all aliens in the United States who apply for adjustment of status, under the immigration laws and regulations.

3. Insert a new subparagraph (2) to read as follows:

(2) *Exceptions.* Neither a chest X-ray examination nor a serologic test for syphilis shall be required if the alien is under the age of 15: *Provided,* That a tuberculin test may be required where there is evidence of contact with a known case of tuberculosis or other reason to suspect infection with tuberculosis and a chest X-ray examination required in the event of a positive reaction, and a serologic test where there is reason to suspect infection with syphilis. Additional exceptions to the requirement for a chest X-ray examination may be authorized for good cause upon application approved by the Director, Center for Disease Control, Health Services and Mental Health Administration.

4. Amend § 34.4(b)(4), as redesignated, by deleting "Chief of the Division of Foreign Quarantine of the Public Health Service" and inserting in lieu thereof "Director, Center for Disease Control, Health Services and Mental Health Administration."

(Sec. 215, 58 Stat. 690; sec. 234, 66 Stat. 198; 42 U.S.C. 216; 8 U.S.C. 1224; secs. 322, 325, 58 Stat. 696, 697; sec. 212, 66 Stat. 182; 42 U.S.C. 249, 252; 8 U.S.C. 1182)

[FR Doc.72–14257 Filed 8–22–72;8:50 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Revocation of Interpretation With Respect to Registration Requirements

Pursuant to the authority in section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135d), § 162.106 (Interpretation 8) "Interpretation with respect to registration requirements" is hereby revoked.

The regulations, as amended August 29, 1964 (40 CFR 162.10) and a number of other changes in requirements and procedures have made this interpretation obsolete.

Done this 17th day of August 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72–14260 Filed 8–22–72;8:51 am]

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Registration of Thallium Products for Control of Insect and Rodent Pests in Household

Pursuant to the authority in section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135d), § 162.120 (Interpretation 22) "Interpretation with respect to registration of thallium products for the control of insect and rodent pests in the household" is hereby revoked.

The cancellation and suspension of all thallium sulfate products makes this interpretation obsolete (See 37 F.R. 5719).

Done this 17th day of August 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72–14261 Filed 8–22–72;8:51 am]

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

Dipropyl Isocinchomeronate

A petition (PP 1F1112) was filed by McLaughlin Gormley King Co., 1715 Southeast Fifth Street, Minneapolis, MN 55414, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of the insecticide dipropyl isocinchomeronate in the raw agricultural commodities milk fat and meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 part per million.

Subsequently, the petitioner amended the petition by proposing a tolerance for negligible residues of the insecticide in milk at 0.004 part per million, rather than for residues in milk fat.

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

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

2. The proposed tolerances for residues in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep and in milk are adequate for residues from the proposed use, and § 180.6(a)(2) 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), Part 180 is amended by adding the following new section to Subpart C:

§ 180.143 Dipropyl isocinchomeronate; tolerances for residues.

Tolerances are established for negligible residues of the insecticide dipropyl isocinchomeronate, resulting from dermal application, in raw agricultural commodities as follows:

0.1 part per million in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

0.004 part per million in milk.

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 (8–23–72).

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

Dated: August 16, 1972.

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

[FR Doc.72-14259 Filed 8-22-72;8:50 am]

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

Subpart D—Exemptions From Tolerances

MALEIC ANHYDRIDE DIISOBUTYLENE COPOLYMER, SODIUM SALT

A petition (PP 2F1225) was filed by Rohm and 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 establishment of an exemption from the requirement of a tolerance for residues of the suspending and dispersing agent maleic anhydride diisobutylene copolymer, sodium salt, when used as an inert ingredient in pesticide formulations applied to growing crops only.

Subsequently, the petitioner amended the petition by proposing that the compound be limited in use to not more than 3 percent of the pesticide formulation.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that the suspending and dispersing agent is useful for the purposes for which an exemption from tolerance is being established and that the exemption established by this order will protect the public health.

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

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Maleic anhydride diisobutylene copolymer, sodium salt.	Not more than 3% of pesticide formulation.	Suspending agent, dispersing agent.
* * *	* * *	* * *

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 (8-23-72).

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

Dated: August 16, 1972.

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

[FR Doc.72-14258 Filed 8-22-72;8:50 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 8—Veterans Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Compliance with the provisions of § 1.12, Title 38, Code of Federal Regulations, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose because these amendments are either editorial in nature or involve agency procedure or practice.

Chapter 8 is amended as follows:

PART 8-1—GENERAL

1. Sections 8-1.1204 and 8-1.1204-1 are revoked.

§ 8-1.1204 Determination of responsibility or nonresponsibility. [Revoked]

§ 8-1.1204-1 Requirement. [Revoked]

2. Section 8-1.1205-1 is revoked.

§ 8-1.1205-1 General. [Revoked]

PART 8-2—PROCUREMENT BY FORMAL ADVERTISING

3. Section 8-2.202-50 is revoked.

§ 8-2.202-50 Acknowledgment of receipt of amendments to invitations for bids. [Revoked]

PART 8-6—FOREIGN PURCHASES

4. In § 8-6.5401, paragraph (b) is amended to read as follows:

§ 8-6.5401 General.

* * * * *

(b) The Office of Import Programs (OIP) is responsible for determining if items meet the established criteria outlined in paragraph (a) of this section.

5. Section 8-6.5402 is revised to read as follows:

§ 8-6.5402 Application for duty-free importation of goods.

(a) An application, Form OIPF 768, will be prepared for each item of duty-free instruments or apparatus requested or to be requested. Form OIPF 768 will be prepared in seven copies and submitted to the Commissioner of Customs, Attention: Tariff Classification Ruling, Washington, D.C. 20226. This application may be submitted prior to purchase of an item (based on a firm intention to buy) or it may be submitted subsequent to the placing of the order. When the application is filed prior to the issuing of an order, the order must be placed on or before the 60th day following the date on which a decision by OIP becomes final.

(1) The application will list all pertinent characteristics and specifications of the foreign made item which, in the opinion of the prospective user, make it superior in scientific value to a similar item of domestic origin.

(2) The application must also explain why an item of these characteristics and specifications is required to accomplish the purpose for which the item is to be used.

(b) The Commissioner of Customs will:

(1) Forward copies of the application to the Office of Import Programs, and

(2) Return one copy to the Veterans Administration station filing the request. This copy will be stamped as accepted for transmittal to the Department of Commerce. The Veterans Administration station making the application will in turn file this copy with the Director of Customs of the district in which the item has been or will be entered.

(c) The Office of Import Programs will publish a notice of the application in the FEDERAL REGISTER. Equipment manufacturers and other interested parties will be given 20 days to present information on scientific instruments or apparatus of domestic manufacture which they feel have equivalent scientific value to the item of foreign make. At the end of 20 days OIP will evaluate any comments received from interested parties, and decide if the item may enter duty-free. This decision will also be published in the FEDERAL REGISTER. If no appeal is made within 20 days from the date of publication, the Office of Import Programs will notify the Director of Customs of the applicable district of the decision. If the applicable district is not known, the Office of Import Programs will notify the Commissioner of Customs.

6. Section 8-6.5404 is revised to read as follows:

§ 8–6.5404 Technical assistance.

Field stations seeking to take advantage of this exemption for a specific procurement will submit to the Manager, VA Marketing Center, Hines, Ill., a letter setting forth in detail the specific circumstances that make such a procurement necessary. The Manager, VA Marketing Center will render to the station advice and technical assistance and, where appropriate, furnish the required forms for filing an application with OIP. Forms are available to the VA Marketing Center from the Deputy Assistant Secretary for Resources, Department of Commerce, field offices, or custom ports.

(Sec. 204(c), 63 Stat. 389, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective August 28, 1972.

Approved: August 16, 1972.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.72-14266 Filed 8-22-72;8:51 am]

Chapter 9—Atomic Energy Commission

PART 9–54—CONTRACT REPORTING

Requirements, Submission, Frequency, and Preparation of Reports

Correction

In F.R. Doc. 72-12508 appearing on page 16081 of the issue for Thursday, August 10, 1972, the last word in § 9–54.004(d) should be "section" instead of "paragraph".

Chapter 29—Department of Labor

PART 29–1—GENERAL

Small Business Program Planning and Implementation; Designation of Official

On pages 12509, 12510, and 12511 of the FEDERAL REGISTER of June 24, 1972, there was published a notice of proposed rulemaking to designate the responsible official for small business program planning and establishing procedures for program implementation. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

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

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

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

J. D. HODGSON,
Secretary of Labor.

Subpart 29–1.7 of Title 41 is revised in the manner set forth below.

Sec.

29–1.702 Small business policies.
29–1.704 Agency program direction and operation.
29–1.704–1 Small business advisor.
29–1.704–2 Small business specialist.
29–1.704–3 Responsibilities of the procurement office.
29–1.706 Procurement set-asides for small business.
29–1.706–50 Procurement set-asides for small business when an SBA representative is not available.
29–1.706–51 General.
29–1.706–52 Review of set aside recommendations initiated by small business specialist.
29–1.706–53 Withdrawal or modification of set asides.
29–1.706–54 Small business set-aside of proposed procurement.
29–1.708 Certificate of competency program.
29–1.708–3 Conclusiveness of certificate of competency.
29–1.709 Records and reports.
29–1.713 Contracts with the Small Business Administration.
29–1.713–2 Policy.

AUTHORITY: The provisions of this Subpart 29–1.7 issued under 80 Stat. 379, 5 U.S.C. 301, 63 Stat. 389, 40 U.S.C. 486(c).

Subpart 29–1.7—Small Business Concerns

§ 29–1.702 Small business policies.

The Department of Labor fully supports the Government's small business program for placing a fair proportion of its private sector purchases and contracts for supplies, research and development, and services, including contracts for maintenance, repair and construction, with small business concerns and increasing small business participation in procurement by the Department.

§ 29–1.704 Agency program direction and operation.

§ 29–1.704–1 Small business adviser.

The Associate Assistant Secretary for Financial Management, or his designee, under the policy direction of the Assistant Secretary for Administration and Management, is designated at DOL's small business adviser. The small business adviser will have the responsibility, as a collateral duty, of establishing and implementing the small business program and guiding the small business specialists in executing the program. He will be the central point of contact for inquiries concerning the small business program from industry, the Small Business Administration (SBA), the Congress, and others. His duties shall include developing a plan of operation to increase the share of contracts awarded to small business by DOL.

§ 29–1.704–2 Small business specialists.

(a) Each head of a procuring activity shall appoint by name and in writing a small business specialist to perform the duties set forth in this section on either a full-time or part-time basis. Only individuals possessing the necessary business acumen, knowledge of DOL procurement policies and procedures, and program background to effectively accomplish the objective of the small business program shall be considered for the appointment. In any instance where the appointee's duty as small business specialist is to be a part-time basis, the appointment shall clearly indicate that the part-time nature of the duty shall in no way relieve the individual from full responsibility for effectively accomplishing the activities of small business program requirements.

(b) The small business specialist shall perform such of the following duties to execute a small business program as are appropriate for his procurement activity.

(1) Develop a plan of operation to increase the share of contracts and purchase orders awarded to small business concerns.

(2) Promote the minority business enterprise program through the Small Business Administration 8(a) procedures (see § 29–1.713).

(3) Review the types and classes of items and services to be purchased to determine the applicability of small business set-asides or class set-asides.

(4) Plan for locating capable small business sources for current and future procurements.

(5) Develop adequate small business competition on all appropriate procurements.

(6) Examine bidders lists to assure that small business firms are identified and adequately represented on all procurements.

(7) Assure that small business firms are identified on bid abstracts.

(8) Assure that restrictive specifications or other actions which prevent small business participation are modified to permit small business participation where adequate performance can be obtained.

(9) Assist and counsel small business firms with individual problems.

(10) Provide for counseling nonresponsive or nonresponsible small business bidders to help qualify them for future awards.

(11) Screen proposed large procurements to determine the possibility of separation or breakout of components suitable for purchase from small business firms.

(12) Attend conferences and meetings publicizing the small business program.

(13) Insure that proposed procurements are publicized in the Commerce Business Daily.

(14) Set goals for small business and 8(a) purchase orders and contracts.

(15) Assure preference to small business firms on multiple award Federal supply schedules.

(16) Promote the award of research contracts to small business firms.

§ 29–1.704–3 Responsibilities of the procurement office.

(a) Each procurement office shall use its best efforts to identify goods and

services where a potential exists for increasing the small business share of contract awards. Each procurement office shall, to the maximum extent feasible, arrange for the making of unilateral small business set-asides on all contracting actions which qualify. The procurement office shall take appropriate actions to provide maximum advance and current information, assistance and counseling of such nature and extent as to enable small business concerns to take full advantage of available DOL business opportunities and to compete for contracts.

(b) The procurement office shall insure that bidder's mailing lists and Federal supply schedules identify small business concerns and that all solicitations state the applicable small business size standard and produce classification.

(c) The responsibilities set forth in paragraph (a) are intended to complement the responsibilities of the small business specialists.

§ 29–1.706 Procurement set-asides for small business.

§ 29–1.706–50 Procurement set-asides for small business when an SBA representative is not available.

§ 29–1.706–51 General.

If no SBA representative is available, the small business specialists shall initiate recommendations to the contracting officer for small business set-asides with respect to individual procurements or classes of procurements or portions thereof.

§ 29–1.706–52 Review of set-aside recommendations initiated by small business specialist.

When a small business specialist has recommended that all, or a portion, of an individual procurement or class of procurements be set aside for small business, the contracting officer shall promptly either (a) concur in the recommendation, or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the contracting officer disapproves the recommendation of a small business specialist, the small business specialist may appeal in writing to the head of the procuring activity whose decision shall be final.

§ 29–1.706–53 Withdrawal or modification of set asides.

Withdrawals or modification of an individual or class set-aside which was originally established upon the recommendation of the small business specialist may be proposed by the contracting officer by giving notice, containing the reason for the proposed withdrawal or modification, to the small business specialist. If the small business specialist does not agree to a withdrawal or modification, he may appeal to the head of the procuring activity, whose decision in writing shall be final.

§ 29–1.706–54 Small business set-asides for proposed procurement.

(a) Each proposed procurement for construction estimated to cost between $2,500 and $500,000 shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn, in accordance with the procedures of §§ 1–1.706–3 and 29–1.706–53, only if found not to serve the best interest of the Government.

(b) Small business set-aside preferences for construction procurements in excess of $500,000 shall be considered on a case-by-case basis.

§ 29–1.708 Certificate of competency program.

§ 29–1.708–3 Conclusiveness of certificate of competency.

If a contracting officer has doubt as to a firm's ability to perform, notwithstanding the issuance of a certificate of competency, he shall refer the matter, with his recommendation, to the Associate Assistant Secretary for Financial Management for his decision. If there is concurrence in a contracting officer's recommendation of not to make an award to the certificate of competency holder, the Associate Assistant Secretary for Financial Management shall request SBA to consider withdrawal of the certificate.

§ 29–1.709 Records and reports.

A semiannual small business report shall be prepared by each procuring activity in accordance with § 1–16.804–3 of this title and shall be forwarded to the Associate Assistant Secretary for Financial Management, Office of the Assistant Secretary for Administration, Attention: OPP, not later than the 25th day following the end of the 6-month and 12-month periods covered respectively by the report.

§ 29–1.713 Contracts with the Small Business Administration.

§ 29–1.713–2 Policy.

(a) It is the policy of DOL to give full consideration to contracting with SBA in order to foster or assist in the establishment or the growth of small business concerns as designated by the SBA so that these concerns may become self-sustaining, competitive entities within a reasonable period of time. The SBA is empowered to arrange for the performance of such contracts by negotiating or otherwise letting contracts to small business concerns or others.

(6) The SBA has delegated to its field offices authority to handle contracts and subcontracts under section 8(a) of the Small Business Act. Heads of procuring activities in Washington, D.C., and the regional offices should assure full cooperation with SBA in their efforts to place procurements with firms who are eligible for subcontract awards by SBA under section 8(a). They shall take the necessary steps to:

(1) Invite appropriate SBA field representatives to identify needs for 8(a) contracts and to provide for cooperation and assistance on the part of DOL in verifying the availability or nonavailability of requirements, funding, and other pertinent factors; and

(2) Propose any requirements which appear to offer potential opportunity for contracting with SBA under authority of section 8(a) of the Small Business Act, for consideration by appropriate SBA field representatives.

[FR Doc.72–14287 Filed 8–22–72;8:52 am]

Title 45—PUBLIC WELFARE

Chapter VIII—Civil Service Commission

PART 801—VOTING RIGHTS PROGRAM

Appendix A; Louisiana

Appendix A to Part 801 is amended as set out below to show, under the heading "Dates, Times, and Places for Filing", one additional place for filing in Louisiana:

LOUISIANA

Parish; place for filing; beginning date

* * * * *

St. Helena; Greensburg—Trailer at Post Office; College and Main Streets; August 19, 1972.

* * * * *

(Secs. 7 and 9 of the Voting Rights Act of 1965; Public Law 89–110)

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

[FR Doc.72–14288 Filed 8–22–72;8:52 am]

Title 49—TRANSPORTATION

Chapter II—Federal Railroad Administration, Department of Transportation

[Docket No. 21]

PART 230—LOCOMOTIVE INSPECTION

Aluminum Main Reservoirs and Monthly Inspection Reports

This amendment adds new §§ 230.206 (d) and 230.206a to provide design, fabrication, inspection, and testing requirements for aluminum main reservoirs used on other than steam powered locomotives. In addition, Part 230 is amended by replacing Form No. 1–A (§ 230.206(b)) with a new reporting record, Form FRA F 6180–49, and by modifying certain reporting requirements connected with the form in §§ 230.331 and 230.451.

ALUMINUM MAIN RESERVOIRS

On January 19, 1971, the Federal Railroad Administration (FRA) published a notice of proposed rule making, Docket No. 21; Notice No. 1 (36 F.R. 833) which proposed new requirements concerning the use of aluminum main reservoirs. Interested persons were invited to comment on the proposed rule. Two comments were received.

One comment was directed chiefly to the proposed periodic hydrostatic testing requirement. The commenter agreed that this testing was useful as a check on quality of fabrication of newly manufactured reservoirs, but contended that subsequent hydrostatic tests served no useful purpose and could subject the reservoir to dents and nicks during handling in railroad shops. In addition, the commenter contended that aluminum reservoirs are not subject to rust or other common corrosion and, therefore, inspection intervals of 6 or 8 years would be more realistic than the proposed 2-year intervals. The FRA believes that the 2-year interval for visual inspection and hydrostatic testing is necessary to assure safety. The few aluminum main reservoirs now in locomotive service are of comparatively recent manufacture, and their exposure to general railroad operating conditions has been very limited. This position in favor of periodic testing was supported by the second comment.

The second comment also concerned the design requirement in the new § 230.206a. The commenter suggested that the characteristics of Aluminum Association Alloy No. 5083–0 be adopted as a minimum requirement instead of permitting only that alloy to be used in aluminum main reservoirs. The FRA believes this change would not be desirable from a safety standpoint. It would allow the indiscriminate use of other alloys which might prove unsuited for use in locomotive main reservoirs. In addition, the commenter suggested that the factor of safety of five be based upon a minimum working pressure of 160 p.s.i. The FRA agrees that working pressures greater than 160 p.s.i. should not be precluded in aluminum reservoirs constructed to withstand five times such pressures and has adopted this suggestion.

The final rule differs from the notice in a number of respects. The text of the rule has been reorganized and contains numerous changes that are editorial or clarifying in nature. Among these changes is the correction of a typographical error in the designation of the aluminum alloy required for aluminum main reservoirs. The correct and complete designation for this alloy is Aluminum Association Alloy No. 5083–0, produced in accordance with American Society for Testing Materials (ASTM) specification B209–68, minimum tensile strength 40,000 p.s.i. However, since the American Society of Mechanical Engineers (ASME) Specification SB–209, as defined in the ASME Boiler and Pressure Vessel Code (1971 edition), section II, Part B, page 123, is the equivalent of ASTM Specification B209–68, modified only to the extent of recognizing use of mill finish only and requiring identification marking, the ASME reference alone is used.

The FRA will periodically review all of the requirements of the new §§ 230.206(d) and 230.206a for both adequacy and necessity in light of operational experience and performance of aluminum main reservoirs in locomotive service.

REPORTING REQUIREMENTS

Under the present rules for other than steam powered locomotive units and multiple operated electric units, carriers are required to conduct a monthly inspection of each unit in use and within 10 days report the inspection on Form No. 1–A to the FRA. These reports document carriers' compliance with the various safety related requirements prescribed in Part 230. In addition, a final report is prepared each time a locomotive unit is retired from service. Form No. 1–A is also used to report main reservoir tests and tests of electrical meters and insulation, although less frequently than at 30-day intervals.

Approximately 35,000 Form No. 1–A reports are completed in triplicate each month. The original of each report is notarized and mailed to an FRA locomotive inspector for review of accuracy and content. The forms are then remailed to the FRA headquarters in Washington, D.C., where they are reviewed once more. There the inspection dates are posted on a master inspection record maintained on each locomotive. Copies of the reports are kept by carriers in their offices and on the locomotive units. These copies are examined by the FRA inspectors during their periodic inspections.

As part of a government-wide study to reduce Federal reporting requirements and related paperwork, the FRA recently conducted a test to determine the feasibility of reducing the reporting burden for locomotive inspections. The test covered a 6-month period (October 1971 through March 1972) and involved approximately 17 percent of 33,000 locomotives covered by the regulations. The test incorporated modified procedures for handling both the present monthly inspection form (Form No. 1–A) and a new multientry inspection record (Form FRA F 6180–49). The test procedures included: (1) Extending the period for reporting inspections to the FRA from monthly to semiannually, (2) eliminating copies of the inspection records, (3) reducing notarization requirements, and (4) a substantial reduction in report handling and mailing for both carriers and the FRA.

Based on an evaluation of the test results, the FRA has concluded that the multientry inspection record and revised reporting procedures will substantially reduce paperwork for carriers and the FRA, with no adverse effect on safety.

Under the new procedures, a multientry inspection record for each locomotive unit will be filed with the FRA in Washington, D.C., twice a year. During the period between January 1 and June 30, the date and place of each required inspection will be recorded on a single form and verified by the signatures of the inspector and his supervisor. This form is retained in the locomotive cab until the first regularly scheduled inspection in July but not later than July 31. Then, it is removed from the cab, certified before a notary public by the operating officer in charge of the unit, and mailed to the FRA's Washington headquarters. At the time of the first regularly scheduled inspection in July, a new form will be placed in the cab to cover that inspection and each one thereafter through December 31. This form remains in the cab until the first regularly scheduled inspection in January, but not later than January 31. It is then removed from the cab, certified, and mailed to the FRA. Carriers are required to maintain backup records of their own choosing to document each required inspection.

The FRA believes that the revised reporting procedures have many advantages over the present requirements involving Form No 1–A. The new procedures improve FRA surveillance capabilities by making a longer history of inspections available to FRA inspectors at each locomotive unit. The new procedures allow carriers complete flexibility in developing their own backup system for inspection documentation. As far as paperwork is concerned, with the proposed new procedures 1,190,000 report forms will be eliminated annually; 770,000 mailings by both carriers and the FRA will be eliminated each year; and 350,000 notarizations will no longer be required each year. In addition, the time required for completion of report forms will be substantially reduced. Overall savings to the carriers and the FRA will amount to $146,000 annually.

In Nos. 6 and 11 set forth hereinafter, two sections are revoked which deal with assignment lists of locomotives transferred from one FRA inspection district to another. Because under the new requirements, reports of inspections are sent directly to Washington, D.C., there is no further need for assignment lists.

No. 8 below amends § 230.333 concerning the retirement of boilers and locomotive units. This section is amended by adding a new paragraph (b) to deal with locomotive units and the use of Form FRA F 6180–49. Although not specifically required, it has been common practice for final reports on both the retirement of boilers and locomotive units to be done on Form No. 1–A. However, since this amendment is only concerned with locomotive units, the language concerning boilers has not been changed.

The amendment eliminating Form No. 1–A is effective October 1, 1972. This means that Form FRA F 6180–49 must be in use on all locomotive units by the time of the first regularly scheduled 30-day inspection in October. The form will then be used and retained in the cabs until the first inspection in January 1973. At that time the initial semiannual report covering the last 3 months of 1972 must be mailed to the FRA in Washington, D.C.

The FRA will provide carriers with enough copies of Form FRA F 6180–49 to last for the first 15 months of operation under the revised procedures. An initial supply will be mailed to carriers before

October 1, 1972. Although the form, which has been approved by the Office of Management and Budget in the Executive Office of the President, does not appear in the final rules, copies may be obtained upon request from the FRA. (See number 14 amending § 230.458.)

The FRA believes that notice and public procedure on the new rules concerning the adoption and use of Form FRA F 6180–49 are unnecessary. The new form incorporates the same requirements for the recording of tests and inspections as does Form No. 1–A. There has been no change in substantive inspection requirements. Only the procedures for handling the forms and reporting the information to the FRA have been changed. Both the FRA and carriers will be in a better position under the new rules than before. The amendments to §§ 230.206 (a) and (b), 230.252, 230.253, 230.406 (a) and (b), and 230.447 merely restate specific recordation requirements that are already required either by Form No. 1–A or by the particular rule itself. Also, §§ 230.333 and 230.452 have been rewritten to include the revised reporting procedures without changing the substantive requirements therein.

This amendment is issued under the authority of secs. 2, 5, 36 Stat. 913, 914, 45 U.S.C. 23, 28; sec. 6 (e), (f), 80 Stat. 939, 940, 49 U.S.C. 1655; and § 1.49(c)(5) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(c)(5).

In consideration of the foregoing, effective October 1, 1972, Part 230 of Title 49 of the Code of Federal Regulations is amended as set forth below.

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

JOHN W. INGRAM,
Administrator.

NOTE: Incorporation by reference provisions in § 230.206a approved by the Director of the Federal Register on March 27, 1972.

1. The table of sections is amended by adding the following new sections and deleting §§ 230.330 and 230.450:

Sec.
230.206a Aluminum main reservoirs.
230.451 Filing of inspection reports.

2. In § 230.206, paragraph (a) is amended, the introductory text in paragraph (b) is amended and the reproduction of Form No. 1–A is deleted, and a new paragraph (d) is added, as follows:

§ 230.206 Main reservoir tests.

(a) Except as provided in paragraph (c) of this section, before being put in service and at least once every 18 months thereafter, each main reservoir other than an aluminum reservoir shall be subjected to a hydrostatic pressure at least 25 percent more than the maximum working pressure fixed by the chief mechanical officer. The date and place of each test and the pounds of pressure applied shall be recorded on Form FRA F 6180–49, and attested thereon by the inspector and his supervisor.

(b) Except as provided in paragraph (c) of this section, each main reservoir other than an aluminum reservoir shall be hammer tested over its entire surface while the reservoir is empty each time the locomotive is shopped for general repairs, but not less frequently than once every 18 months. The date and place of each test shall be recorded on Form FRA F 6180–49 and attested thereon by the inspector and his supervisor.

* * * * *

(d) Each aluminum main reservoir, before being placed in service and at least once every 24 months thereafter, must be—

(1) Cleaned and given a thorough visual inspection of all internal and external surfaces for evidence of defects or deterioration; and

(2) Subjected to a hydrostatic pressure at least twice the maximum working pressure fixed by the chief mechanical officer, but not less than 250 p.s.i.

The date and place of each cleaning, inspection, and test shall be recorded on Form FRA F 6180–49 and attested thereon by the inspector and his supervisor.

3. A new § 230.206a is added to read as follows:

§ 230.206a Aluminum main reservoirs.

(a) The following requirements govern the design, fabrication, and inspection of aluminum main reservoirs used on locomotive units:

(1) The heads and shell must be made of Aluminum Assocation Alloy No. 5083–0, produced in accordance with American Society of Mechanical Engineers (ASME) Specification SB–209, as defined in the "ASME Boiler and Pressure Vessel Code" (1971 edition), section II, part B, page 123, with a minimum tensile strength of 40,000 p.s.i. (40 k.s.i.).

(2) Each aluminum main reservoir must be designed, fabricated, and inspected in accordance with the "ASME Boiler and Pressure Vessel Code," section VIII, division 1 (1971 edition), except as otherwise provided in this part. However, an interpretation in the "Case Interpretations of ASME Boiler and Pressure Vessel Code" is not applicable to design, fabrication, or inspection under this section unless approved by the Federal Railroad Administrator.

(3) An aluminum main reservoir must be constructed to withstand at least five times its maximum working pressure or 800 p.s.i., whichever is greater.

(4) Each aluminum main reservoir must have at least two inspection openings to permit complete circumferential visual observation of the interior surface. On reservoirs less than 18 inches in diameter, the size of each inspection opening must be at least that of 1½-inch threaded iron pipe, and on reservoirs 18 or more inches in diameter, the size of each opening must be at least that of 2-inch threaded iron pipe.

Under § 211.11 of this chapter, a person may petition the Administrator for permission to use any revision or modification of the 1971 edition of the *"ASME Boiler and Pressure Vessel Code."*

(b) The following publications, which contain the industry standards incorporated by reference in paragraph (a) of this section, may be obtained from the publisher and are also on file in the Office of Safety of the Federal Railroad Administration, Room 5423, 400 Seventh Street SW., Washington, DC 20590: sections II and VIII of the "ASME Boiler and Pressure Vessel Code" (1971 edition) published by the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017.

4. Section 230.252 is amended to read as follows:

§ 230.252 Voltmeters and ammeters.

Voltmeters and ammeters on units receiving power from an outside source shall be tested whenever any irregularity is reported, but not less frequently than once every 6 months. Voltmeters, and ammeters on units driven from power generated within the unit shall be tested whenever any irregularity is reported, but not less frequently than once every 12 months. Meters reading more than 5 percent in error shall be corrected. The date and place of each test shall be recorded on Form FRA F 6180–49 and attested by the inspector and his supervisor.

5. Section 230.253 is amended to read as follows:

§ 230.253 Insulation dielectric test; voltage to be applied.

Not less than once every year an insulation dielectric test of not less than 1 minute duration shall be applied to all circuits and parts carrying current with potential of more than 150 volts. The voltage applied to circuits other than motor or generator windings, shall be not less than 75 percent above the normal working voltage; the voltage applied to windings shall be not less than 50 percent above the normal working voltage. A careful examination shall be made of any weakness indicated and all defects remedied before the locomotive is put in use. The date and place of each test and the normal voltage shall be recorded on Form FRA F 6180–49 and attested by the inspector and his supervisor.

§ 230.330 [Revoked]

6. Section 230.330 is revoked.

7. Section 230.331 is revised to read as follows:

§ 230.331 Monthly locomotive unit inspection and report.

(a) Except as provided in paragraph (e) of this section, locomotive units shall be inspected at least once every 30 days to determine whether they meet the requirements of this subpart. However, an inspection may be made within 5 days after the end of a 30-day period, if—

(1) The railroad responsible for the inspection needs additional time due to circumstances beyond its control; and

(2) The circumstances are noted on Form FRA F 6180–49.

(b) At the time of each inspection, any defects which are not repaired shall be listed on the reverse of Form FRA F 6180–49.

(c) During the 6 months beginning with January and July of each year, the date and place of each inspection performed as required by paragraph (a) of this section shall be recorded on Form FRA F 6180–49 and attested thereon by the inspector and his supervisor. The form shall be displayed under a transparent cover in a conspicuous place in the cab of each locomotive unit. When a new form is placed in the cab, the last dates of tests performed under §§ 230.206, 230.252, and 230.253 shall be recorded on the form. January and July of each year the form covering the previous 6 months' inspections shall be removed from the cab, certified before a notary public by the railroad official responsible for the unit, and filed with the Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590.

(d) The mechanical officer of each railroad who is in charge of a locomotive unit shall maintain in his office a secondary record of the information submitted to the FRA on Form FRA F 6180–49 under paragraph (c) of this section.

(e) When a locomotive unit is removed from service for 30 or more consecutive days or is otherwise out-of-service when it is due for an inspection under paragraph (a) of this section, an out-of-service notation shall be made on an inspection line on Form FRA F 6180–49. A supervisory employee of the railroad who is responsible for operation of the unit shall attest to the notation. Before the unit is returned to service, an inspection shall be made as required by paragraph (a) of this section and recorded on Form FRA F 6180–49.

8. Section 230.333 is amended to read as follows:

§ 230.333 Final report.

(a) When a boiler is permanently retired from service, a final report shall be filed with the U.S. inspector in charge. This report, when filed, will close the record for the boiler. The report shall show the name of the railroad; the builder and number; the disposition made of it, whether scrapped or sold, and if sold, to whom. The report shall bear the statement, "Boiler will not again be used by this company." The report shall give date and place where made and be signed and sworn to by the officer in charge.

(b) When a locomotive unit is permanently retired from service, the Form FRA F 6180–49 in use on the unit at that time shall be filed with the Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 within 30 days after disposal of the unit. The following must be written on the face of the form:

(1) The words, "Unit will not again be used by this company";

(2) The date and place the unit is retired from service; and

(3) A statement of the disposition of the unit.

9. In § 230.406, paragraphs (a) and (b) are amended to read as follows:

§ 230.406 Testing of main reservoirs.

(a) Except as provided in paragraph (c) of this section, each main reservoir, before being put in service and at least once every 24 months thereafter, shall be subjected to hydrostatic pressure not less than 25 percent above the maximum working pressure fixed by the chief mechanical officer. The date and place of each test and the pounds of pressure applied shall be recorded on Form FRA F 6180–49, and attested thereon by the inspector and his supervisor.

(b) Except as provided in paragraph (c) of this section, the entire surface of each main reservoir shall be hammer tested each time the locomotive is shopped for general repairs, but not less frequently than once every 24 months. The date and place of each test shall be recorded on Form FRA F 6180–49 and attested thereon by the inspector and his supervisor.

* * * * *

10. Section 230.447 is amended to read as follows:

§ 230.447 Insulation dielectric test.

Not less than once every year an insultation dielectric test of not less than 1-minute duration shall be applied to all circuits and parts carrying current with potential of more than 150 volts. The voltage applied to circuits other than motor or generator windings, shall be not less than 75 percent above the normal working voltage; the voltage applied to windings shall be not less than 50 percent above the normal working voltage. A careful examination shall be made of any weakness indicated and all defects remedied before the locomotive is put in use. The date and place of each test and the normal voltage shall be recorded on Form FRA F 6180–49 and attested thereon by the inspector and his supervisor.

§ 230.450 [Revoked]

11. Section 230.450 is revoked.

12. Section 230.451 is revised to read as follows:

§ 230.451 Filing of inspection reports.

(a) Except as provided in paragraph (e) of this section, locomotive units shall be inspected at least once every 30 days to determine whether they meet the requirements of this subpart. However, an inspection may be made within 5 days after the end of a 30-day period, if—

(1) The railroad responsible for the inspection needs additional time due to circumstances beyond its control; and

(2) The circumstances are noted on Form FRA F 6180–49.

(b) At the time of each inspection, any defects which are not repaired shall be listed on the reverse of Form FRA F 6180–49.

(c) During the 6 months beginning with January and July of each year, the date and place of each inspection performed as required by paragraph (a) of this section shall be recorded on Form FRA F 6180–49 and attested thereon by the inspector and his supervisor. The form shall be displayed under a transparent cover in a conspicuous place in the cab of each locomotive unit. When a new form is placed in the cab, the last dates of tests performed under §§ 230.406 and 230.447 shall be recorded on the form. In January and July of each year the form covering the previous 6 months' inspections shall be removed from the cab, certified before a notary public by the railroad official responsible for the unit, and filed with the Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590.

(d) The chief mechanical officer of each railroad who is in charge of a locomotive unit shall maintain in his office a secondary record of the information submitted to the FRA on Form FRA F 6180–49 under paragraph (c) of this section.

(e) When a locomotive unit is removed from service for 30 or more consecutive days or is otherwise out-of-service when it is due for an inspection under paragraph (a) of this section, in lieu of that inspection, an out-of-service notation may be made on an inspection line on Form FRA F 6180–49. A supervisory employee of the railroad who is responsible for operation of the unit shall attest to the notation. Before the unit is returned to service, an inspection shall be made as required by paragraph (a) of this section and recorded on Form FRA F 6180–49.

13. Section 230.452 is revised to read as follows:

§ 230.452 Retirement or change of unit numbers.

(a) When a locomotive unit is permanently retired from service, the Form FRA F 6180–49 in use on the unit at that time shall be filed with the Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 within 30 days after disposal of the unit. The following must be written on the face of the form:

(1) The words, "Unit will not again be used by this company";

(2) The date and place the unit is retired from service; and

(3) A statement of the disposition of the unit.

(b) When the unit number of a locomotive unit is changed, the new number shall be recorded on Form FRA F 6180–49 beside the old number and prefixed by the word "new".

14. In § 230.458 paragraph (a) is amended to read as follows:

§ 230.458 Report forms.

(a) The locomotive Inspection and Repair Record, Form FRA F 6180–49, shall be printed on a good grade of pale blue paper, size 9 by 12 inches.

NOTE: Until January 1, 1974, carriers may obtain from the Federal Railroad Administration enough copies of Form FRA F 6180–49 necessary to comply with requirements of this part. After that date only specimen copies will be available.

* * * * *

[FR Doc.72–14279 Filed 8–22–72;8:53 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 55 (Sub. Nos. 6 and 7)]

PART 1041—INTERPRETATION, CERTIFICATES AND PERMITS

Territorial and Commodity Description Clarification; Correction

On July 17, 1972, an order in this matter was issued (37 F.R. 14307, July 19, 1972), containing an error in form of codification which is hereby corrected to read as follows:

Section 1041.11 is hereby revised as follows:

§ 1041.11 Service to, from, and between points in each Alaska and Hawaii.

This amendatory language and heading is followed by the language of the original order commencing with "certificates and permits issued to motor carriers * * *."

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–14270 Filed 8–22–72;8:51 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C–2240]

PART 13—PROHIBITED TRADE PRACTICES

Mekelburg Co., Inc., and Joseph Mekelburg

Correction

In F.R. Doc. 72–12819 appearing at page 16482 of the issue for Tuesday, August 15, 1972, the headings should read as set forth above.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Proposed Effect of Depreciation on Earnings and Profits

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by September 25, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by September 25, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the office of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 312, 964, and 1248 of the Internal Revenue Code of 1954 to section 442 of the Tax Reform Act of 1969 (83 Stat. 628), such regulations are amended as follows:

PARAGRAPH 1. Section 1.312 is amended by adding new subsections (k), (l), and (m) to section 312 and by revising the historical note. These revised and added provisions read as follows:

§ 1.312 Statutory provisions; effect on earnings and profits.

SEC. 312. *Effect on earnings and profits.*
* * *

(k) *Special adjustment on disposition of antitrust stock received as a dividend.* If a corporation received antitrust stock as (defined in section 301(f)) in a distribution to which section 301 applied, and the amount of the distribution determined under section 301(f)(2) exceeded the basis of the stock determined under section 301(f)(3), then proper adjustment shall be made, under regulations prescribed by the Secretary or his delegate, to the earnings and profits of such corporation at the time such stock (or other property the basis of which is determined by reference to the basis of such stock) is disposed of by such corporation.

(l) *Earnings and profits of foreign investment companies*—(1) *Allocation within affiliated group.* In the case of a sale or exchange of stock in a foreign investment company (as defined in section 1246(b)) by a U.S. person (as defined in section 7701(a)(30)), if such company is a member of an affiliated group, then the accumulated earnings and profits of all members of such affiliated group shall be allocated under regulations prescribed by the Secretary or his delegate, in such manner as is proper to carry out the purposes of section 1246.

(2) *Affiliated group defined.* For purposes of paragraph (1) of this subsection, the term "affiliated group" has the meaning assigned to such term by section 1504(a); except that (A) "more than 50 percent" shall be substituted for "80 percent or more", and (B) all corporations shall be treated as includible corporations (without regard to the provisions of section 1504(b)).

(3) *Partial liquidations and redemptions*—(A) *In general.* If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed.

(B) *Effective date.* Subparagraph (A) shall apply only with respect to distributions made after December 31, 1962.

(m) *Effect of depreciation on earnings and profits*—(1) *General rule.* For purposes of computing the earnings and profits of a corporation, for any taxable year beginning after June 30, 1972, the allowance for depreciation (and amortization, if any) shall be deemed to be the amount which would be allowable for such year if the straight line method of depreciation had been used for each taxable year beginning after June 30, 1972.

(2) *Exception.* If for any taxable year beginning after June 30, 1972, a method of depreciation was used by the taxpayer which the Secretary or his delegate has determined results in a reasonable allowance under section 167(a), and which is not—

(A) A declining balance method,

(B) The sum of the years-digits method, or

(C) Any other method allowable solely by reason of the application of subsection (b)(4) or (j)(1)(C) of section 167,

then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of under the straight line method).

(3) *Certain foreign corporations.* The provisions of paragraph (1) shall not apply in computing the earnings and profits of a foreign corporation for any taxable year for which less than 20 percent of the gross income from all sources of such corporation is derived from sources within the United States.

[Sec. 312 as amended by sec. 3(a), Act of February 2, 1962 (76 Stat. 6); secs. 13(f)(3), 14(b)(1), Rev. Act 1962 (76 Stat. 1035, 1040); sec. 231(b)(3), Rev. Act 1964 (78 Stat. 105); sec. 1(b)(1), Act of August 22, 1964 (78 Stat. 597); sec. 1(b)(3), Act of September 12, 1966 (80 Stat. 762); secs. 211(b)(3), 442(a), 905(b)(2), Tax Reform Act 1969 (83 Stat. 570, 628, 714)]

PAR. 2. Section 1.312-7 is amended by revising the last sentence of paragraph (c)(1) and adding a new example at the end of paragraph (c)(2). The revised and added provisions read as follows:

§ 1.312-7 Effect on earnings and profits of gain or loss realized after February 28, 1913.

* * * * *

(c)(1) * * * The adjustments provided by such third sentence reflect the treatment provided by §§1.312-6 and 1.312-15 relative to cases where the deductions for depletion and depreciation in computing taxable income (or net income, as the case may be) differ from the deductions proper for the purpose of computing earnings and profits.

(2) * * *

Example (3). On January 1, 1973, corporation X purchased for $10,000 a depreciable asset with an estimated useful life of 20 years and no salvage value. In computing depreciation on the asset, corporation X used the declining balance method with a rate twice the straight line rate. On December 31, 1976, the asset was sold for $9,000. Under section 1016(a)(2), the basis of the asset is adjusted for depreciation allowed for the years 1973 through 1976, or a total of $3,439. Thus, X realizes a gain of $2,439 (the excess of the amount realized, $9,000, over the adjusted basis, $6,561). However, the proper adjustment to basis for the purpose of determining earnings and profits is only $2,000, i.e., the total amount which, under § 1.312-15, was applied in the computation of earnings and profits for the years 1973-76. Hence, upon sale of the asset, earnings and profits are increased by only $1,000, i.e., the excess of the amount realized, $9,000, over the adjusted basis for earnings and profits purposes, $8,000.

* * * * *

PAR. 3. After § 1.312-12, the following sections are added:

§ 1.312-13 [Reserved]

§ 1.312-14 [Reserved]

§ 1.312-15 Effect of depreciation on earnings and profits.

(a) *Depreciation for taxable years beginning after June 30, 1972*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph and paragraph (c) of this section, for purposes of computing the earnings and profits of a corporation (including a real estate investment trust as defined in section 856) for any taxable year beginning after June 30, 1972, the allowance for depreciation (and amorti-

zation, if any) shall be deemed to be the amount which would be allowable for such year if the straight line method of depreciation had been used for all property for which depreciation is allowable for each taxable year beginning after June 30, 1972. Thus, for taxable years beginning after June 30, 1972, in determining the earnings and profits of a corporation, depreciation must be computed under the straight line method, notwithstanding that in determining taxable income the corporation uses an accelerated method of depreciation described in subparagraph (A), (B), or (C) of section 312(m)(2) or elects to amortize the basis of property under section 169, 184, 187, or 188, or any similar provision.

(2) *Exception.* (i) If, for any taxable year beginning after June 30, 1972, a method of depreciation is used by a corporation in computing taxable income which the Secretary or his delegate has determined results in a reasonable allowance under section 167(a) and which is not a declining balance method of depreciation (described in § 1.167(b)-2), the sum of the years-digits methods (described in § 1.167(b)-3), or any other method allowed solely by reason of the application of subsection (b)(4) or (j)(1)(C) of section 167, then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of the straight line method).

(ii) The Commissioner has determined that the "unit of production" (see § 1.167 (b)-0 (b)), and the "machine hour" methods of depreciation, when properly used under appropriate circumstances, meet the requirements of subdivision (i) of this subparagraph. Thus, the adjustment to earnings and profits for depreciation (for the taxable year for which either of such methods is properly used under appropriate circumstances) shall be determined under whichever of such methods is used to compute taxable income.

(3) *Determinations under straight line method.* (i) In the case of property with respect to which an allowance for depreciation is claimed in computing taxable income, the determination of the amount which would be allowable under the straight line method shall be based on the manner in which the corporation computes depreciation in determining taxable income. Thus, if an election under § 1.167(a)-11 is in effect with respect to the property, the amount of depreciation which would be allowable under the straight line method shall be determined under § 1.167(a)-11(g)(3). On the other hand, if property is not depreciated under the provisions of § 1.167(a)-11, the amount of depreciation which would be allowable under the straight line method shall be determined under § 1.167(b)-1. Any election made under section 167(f), with respect to reducing the amount of salvage value taken into account in computing the depreciation allowance for certain property, or any convention adopted under § 1.167(a)-10 (b) or § 1.167(a)-11(c)(2), with respect to additions and retirements from multiple asset accounts, which is used in computing depreciation for taxable income shall be used in computing depreciation for earnings and profits purposes.

(ii) In the case of property with respect to which an election to amortize is in effect under section 169, 184, 187, or 188, or any similar provision, the amount which would be allowable under the straight line method of depreciation shall be determined under the provisions of § 1.167(b)-1. Thus, the cost or other basis of the property, less its estimated salvage value, is to be deducted in equal annual amounts over the period of the estimated useful life of the property. In computing the amount of depreciation for earnings and profits purposes, a taxpayer may utilize the provisions of section 167(f) (relating to the reduction in the amount of salvage value taken into account in computing the depreciation allowance for certain property) and any convention which could have been adopted for such property under § 1.167(a)-10(b) (relating to additions and retirements from multiple asset accounts).

(b) *Transitional rules*—(1) *Depreciation.* If, for the taxable year which includes June 30, 1972, (i) the allowance for depreciation of any property is computed under a method other than the straight line method or a method described in paragraph (a)(2) of this section, and (ii) paragraph (a)(1) of this section applies to such property for the first taxable year beginning after June 30, 1972, then adjustments to earnings and profits for depreciation of such property for taxable years beginning after June 30, 1972, shall be determined as if the corporation changed to the straight line method with respect to such property as of the first day of the first taxable year beginning after June 30, 1972. Thus, if an election under § 1.167(a)-11 is in effect with respect to the property, the change shall be made under the provisions of § 1.167(a)-11(c)(1)(iii), except that no statement setting forth the vintage accounts for which the change is made shall be furnished with the income tax return of the year of change if the change is only for purposes of computing earnings and profits. In all other cases, the unrecovered cost or other basis of the property (less a reasonable estimate for salvage) as of such first day shall be recovered through equal annual allowances over the estimated remaining useful life determined in accordance with the circumstances existing at that time. See paragraph (a)(3)(i) of this section for rules relating to the applicability of section 167(f) in determining salvage value.

(2) *Amortization.* If, for the taxable year which includes June 30, 1972, the basis of any property is amortized under section 169, 184, 187, or 188, or any similar provision, then adjustments to earnings and profits for depreciation or amortization of such property for taxable years beginning after June 30, 1972, shall be determined as if the unrecovered cost or other basis of the property (less a reasonable estimate for salvage) as of the first day of the first taxable year beginning after June 30, 1972, were recovered through equal annual allowances over the estimated remaining useful life of the property determined in accordance with the circumstances existing at that time. See paragraph (a)(3)(ii) of this section for rules relating to the applicability of section 167(f).

(c) *Certain foreign corporations.* Paragraphs (a) and (b) of this section shall not apply in computing the earnings and profits of a foreign corporation for any taxable year for which less than 20 percent of the gross income from all sources of such corporation is derived from sources within the United States.

(d) *Books and records.* Wherever different methods of depreciation are used for taxable income and earnings and profits purposes, records shall be maintained which show the depreciation taken for earnings and profits purposes each year and which will allow computation of the adjusted basis of the property in each account using the depreciation taken for earnings and profits purposes.

§ 1.964 [Amended]

PAR. 4. Section 1.964 is amended by striking out "For purposes of this subpart," and inserting in lieu thereof "Except as provided in section 312(m)(3), for purposes of this subpart" in section 964(a), and by adding "; amended by sec. 442(b)(1), Tax Reform Act 1969 (83 Stat. 628)" immediately after "76 Stat. 1006)" in the historical note.

PAR. 5. Paragraph (c)(1)(iii) of § 1.964-1 is amended to read as follows:

§ 1.964-1 Determination of the earnings and profits of a foreign corporation.

* * * * *

(c) *Tax adjustments*—(1) *In general.* * * *

(iii) *Depreciation.* Depreciation shall be computed as follows:

(*a*) For any taxable year beginning before July 1, 1972, depreciation shall be computed in accordance with section 167 and the regulations thereunder.

(*b*) If, for any taxable year beginning after June 30, 1972, 20 percent or more of the gross income from all sources of the corporation is derived from sources within the United States, then depreciation shall be computed in accordance with the provisions of § 1.312-15.

(*c*) If, for any taxable year beginning after June 30, 1972, less than 20 percent of the gross income from all sources of the corporation is derived from sources within the United States, then depreciation shall be computed in accordance with section 167 and the regulations thereunder.

* * * * *

§ 1.1248 [Amended]

PAR. 6. Section 1.1248 is amended by striking out "For purposes of this section," and inserting in lieu thereof "Except as provided in section 312(m)(3), for purposes of this section" in section 1248(c)(1), and by adding "; amended by sec. 442(b)(2), Tax Reform Act 1969

(83 Stat. 628)" immediately after "(76 Stat. 1041)" in the historical note.

[FR Doc.72-14186 Filed 8-22-72;8:45 am]

[26 CFR Part 1]

INCOME TAX

Carryover of Inventories and Accounting Methods in Certain Corporate Acquisitions

Notice is hereby given that the regulations with respect to the carryover of inventories in certain corporate acquisitions proposed to be prescribed under section 381(c)(5) of the Internal Revenue Code of 1954 which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for December 29, 1960 (25 F.R. 13911) are withdrawn and that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by September 25, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.-601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by September 25, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Regulations are hereby prescribed under section 381(c)(5) of the Internal Revenue Code of 1954, relating to the carryover of inventories in certain corporate acquisitions. In addition, the regulations under section 381(c)(4) of such Code, relating to the carryover of accounting methods in certain corporate acquisitions, are hereby revised. These amended and added provisions are as follows:

PARAGRAPH 1. Paragraph (c)(1), example (5) of paragraph (c)(3), and paragraph (d)(1)(iii) of § 1.381(c)(4)-1 are amended to read as follows:

§ 1.381(c)(4)-1 Method of accounting.

* * * * *

(c) *Change of method of accounting without consent of Commissioner*—(1) *General rule.* If the acquiring corporation may not continue to use, under the provisions of paragraph (b) of this section, the method of accounting used by it or the distributor or transferor corporation or corporations on the date of distribution or transfer, the acquiring corporation shall use the principal method of accounting of such corporation (as determined under subparagraph (2) of this paragraph): *Provided,* That: (i) Such method of accounting clearly reflects the income of the acquiring corporation, and (ii) the use of such method is not inconsistent with the provisions of any closing agreement entered into under section 7121 and the regulations thereunder. If the principal method of accounting does not meet these requirements, or if there is no principal method of accounting, see subdivision (i) of paragraph (d)(1) of this section. If the acquiring corporation wishes to use a method of accounting other than the principal method of accounting, see subdivision (ii) of paragraph (d)(1) of this section. Whenever this paragraph applies, the increase or decrease in tax resulting from the change from the method of accounting previously used by any of the corporations involved shall be taken into account by the acquiring corporation. The adjustments necessary to reflect such change and such increase or decrease in tax shall be determined and computed in the same manner as if on the date of distribution or transfer each of the several corporations whose method or methods of accounting are required to be changed in accordance with this section had initiated a change in accounting method. In addition, the acquiring corporation shall take into account the portion of such adjustments which is attributable to pre-1954 Code years to the extent not taken into account by any of the other corporations in accordance with the rules provided in section 481(b)(4) and this paragraph. However, for taxable years beginning after [insert date of publication of final regulations under this subparagraph in the FEDERAL REGISTER], the adjustments necessary to reflect the change from the method of accounting previously used by any of the corporations involved (including any adjustments required by section 481), shall be determined and computed in the same manner as if, on the date of distribution or transfer, each of the several corporations that were not using the principal method of accounting had initiated a change in the method of accounting; however, such adjustments (as an item of income or deduction, as the case may be) shall be taken into account solely by the acquiring corporation in computing its taxable income. If the principal method of accounting is adopted under this paragraph, it will be unnecessary for the acquiring corporation to renew any election previously made by it or by any distributor or transferor corporation with respect to such principal method of accounting which is in effect on the date of distribution or transfer to the same extent as though the distribution or transfer had not occurred, and the acquiring corporation is bound by any such elections.

* * * * *

(3) *Examples.* * * *

Example (5). Assume the same facts as in example (1) except that M corporation commenced business in 1945. In addition assume that N corporation is a calendar-year taxpayer and that of the total amount of the adjustments required by section 481 to the place the accounts of M corporation on the accrual method $40,000 is attributable to pre-1954 Code years as described in section 481(b)(4) and the regulations thereunder. Assume further that M corporation does not elect, under section 481(b)(6), to take the $40,000 portion of the adjustments into account in the manner described in section 481(b)(1) or (2). In computing the increase in tax of M corporation attributable to the $40,000 portion of the adjustments for the fiscal year ended June 30, 1961, only one-tenth, or $4,000, will be taken into account in 1961 by N corporation. The remaining nine-tenths of the $40,000 portion of the adjustments, or $36,000, shall be taken into account by N corporation in the amount of $4,000 in each of the calendar years 1962 through 1970.

(d) *Change of method of accounting with consent of Commissioner*—(1) *General rule.* * * *

(iii) The increase or decrease in tax resulting from the change from the method of accounting previously used by any of the corporations involved shall be taken into account by the acquiring corporation. The adjustments necessary to reflect such change and such increase or decrease in tax shall be determined and computed in the same manner as if, on the date of distribution or transfer, each of the several corporations that were not using the method or combination of methods of accounting adopted pursuant to subdivision (i) or (ii) of this subparagraph had initiated a change in accounting method. However, for taxable years beginning after [insert date of publication of final regulations under this subdivision in the FEDERAL REGISTER], the adjustments necessary to reflect the change from the method of accounting previously used by any of the corporations involved (including any adjustments required by section 481) to a method required or permitted under this paragraph shall be determined and computed in the same manner as if, on the date of distribution or transfer, each of the several corporations that were not using the method of accounting adopted pursuant to this paragraph had initiated a change in the method of accounting; however, such adjustments (as an item of income or deduction, as the case may be) shall be taken into account solely by the acquiring corporation in computing its taxable income.

* * * * *

PAR. 2. There are inserted immediately after § 1.381(c)(4)-1 the following new sections:

§ 1.381(c)(5) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; inventories.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.* The items referred to in subsection (a) are:

* * * * *

(5) *Inventories.* In any case in which inventories are received by the acquiring corporation, such inventories shall be taken by such corporation (in determining its income) on the same basis on which such inventories were taken by the distributor or transferor corporation, unless different methods were used by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of taking inventory adopted pursuant to regulations prescribed by the Secretary or his delegate.

§ 1.381(c)(5)–1 Inventories.

(a) *Carryover requirement*—(1) *General rule.* Section 381(c)(5) provides that in a transaction to which section 381(a) applies and in which inventories are received by the acquiring corporation (as defined in § 1.381(a)–1(b)(2)) such inventories shall be taken by the acquiring corporation (in determining its income) on the same basis on which such inventories were taken by the distributor or tranferor corporation on the date of distribution or transfer unless different inventory methods were used on that date by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of taking inventories adopted pursuant to the provisions of this section.

(2) *Rules of application.* References in this section to a method or methods of taking inventories are to be construed as referring to both the method or methods of identifying the goods and the method or methods of valuing the goods. The method or methods of taking inventories shall be determined on the date of distribution or transfer, and any corporation, a party to a section 381(a) transaction whose taxable year does not end on such date shall be considered as using the method or methods of taking inventories that it would have employed had its taxable year ended on such date. The amount of the adjustments necessary to reflect the change in method of taking inventories pursuant to this section, the manner in which they are to be taken into account by the acquiring corporation, and the tax attributable thereto shall be determined and computed under section 481 and the regulations thereunder, subject to the rules provided in paragraphs (c), (d), and (e) of this section. This section shall not be construed as preventing the acquiring corporation from adopting an inventory method which, under the provisions of section 471 or 472, and the regulations thereunder, may be adopted without the consent of the Commissioner. For provisions defining the date of distribution or transfer, see paragraph (b) of § 1.381(b)–1.

(b) *Conditions for continuation of methods of taking inventories*—(1) *No difference in method of taking inventories.* (i) If all the parties to a section 381(a) transaction used the same method of taking inventories on the date of distribution or transfer, the acquiring corporation, whether or not immediately after the date of distribution or transfer it operates separate or integrated trades or businesses, shall continue to use such method of taking inventories, unless the acquiring corporation has, in accordance with paragraph (e) of § 1.446–1, obtained the consent of the Commissioner to use a different method of taking inventories.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. O and P corporations are manufacturing companies which compute their entire inventories by the use of the last-in, first-out method of identification and the cost basis of valuation. In applying the last-in, first-out method both corporations use the dollar-value method, use the double-extension method, pool under the natural business unit method, and value annual inventory increases by reference to the actual cost of goods most recently purchased. P corporation acquires the assets of O corporation in a transaction to which section 381(a) applies. Under the provisions of this subparagraph, on and after the date of distribution or transfer P corporation must continue to use the last-in, first-out method of identification, the cost basis of valuation, and, in applying the last-in, first-out method, must continue to use the dollar-value method, use the double-extension method, pool under the natural business unit method, and value annual inventory increases by reference to the actual cost of goods most recently purchased, unless, in accordance with paragraph (e) of § 1.446–1, consent of the Commissioner is obtained to change the method of taking inventories.

(2) *Separate businesses.* (i) If, immediately after the date of distribution or transfer, any of the trades or businesses of the parties to a section 381(a) transaction are operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then the method or methods of taking inventories employed by such parties to the transaction on the date of distribution or transfer with respect to such trades or businesses shall be used by the acquiring corporation, unless the acquiring corporation has, in accordance with paragraph (e) of § 1.446–1, obtained the consent of the Commissioner to use a different method of taking inventories. This subparagraph shall not be construed as precluding the Commissioner under section 471 or 472, and the regulations thereunder, from requiring that the method of taking inventories used in a particular trade or business be used in another trade or business with respect to similar types of goods, if, in the opinion of the Commissioner, the use of such method of taking inventories is necessary for a clear reflection of income. See paragraph (e) of this section for special rules relating to the use of the last-in, first-out method.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. R corporation is engaged in the production of radios and television sets and S corporation is engaged in the production of washers and driers. In computing their inventories both corporations use the cost basis of valuation. R corporation uses the last-in, first-out method of identification, whereas S corporation uses the first-in, first-out method. T corporation acquires the assets of R corporation and S corporation in a transaction to which section 381(a) applies. T corporation operates as a separate and distinct trade or business, within the meaning of paragraph (d) of § 1.446–1, each of the businesses formerly operated by R corporation and S corporation. Under the provisions of this subparagraph, T corporation is required to continue to use the method of taking inventories previously used by R corporation and S corporation, respectively, with respect to each trade or business, unless, in accordance with paragraph (e) of § 1.446–1, consent of the Commissioner is obtained to change the methods of taking inventories, on and after the dates of transfer. However, the Commissioner may require T corporation, in accordance with § 1.472–2, to use the last-in, first-out method with respect to that portion of the goods in the trades or businesses formerly operated by S corporation and T corporation which are similar to goods in the trade or business formerly operated by R corporation, if, in his opinion, the use of the last-in, first-out method with respect to such similar goods is necessary for a clear reflection of income.

(3) *Integrated businesses*—(i) *Same inventory method.* If, immediately after the date of distribution or transfer, any of the trades or businesses of the parties to a section 381(a) transaction are not operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then, to the extent that the same methods of taking inventories for particular types of goods were employed on the date of distribution or transfer by the parties to the transaction with respect to any trades or businesses which are integrated or are required to be integrated in accordance with paragraph (d) of § 1.446–1, the acquiring corporation shall continue to employ such methods of taking inventories for such types of goods, unless, in accordance with paragraph (e) of § 1.446–1, the acquiring corporation has obtained the consent of the Commissioner to use a different method of taking inventories. This subdivision shall not be construed as precluding the Commissioner under section 471 or 472, and the regulations thereunder, from requiring that the method of taking inventories used with respect to particular types of goods in a particular trade or business operated by the acquiring corporation after the date of distribution or transfer be used with respect to similar types of goods in another trade or business operated by it after such date if, in the opinion of the Commissioner, the use of such method of taking inventories is necessary for a clear reflection of income. However, see paragraph (e) of this section for special rules relating to the use of the last-in, first-out method.

(ii) *Different inventory methods.* If, immediately after the date of distribution or transfer, any of the trades or businesses of the parties to a section

381(a) transaction are not operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then, to the extent that different methods of taking inventories for particular types of goods were employed on the date of distribution or transfer by the parties to the transaction with respect to any trades or businesses which are integrated or required to be integrated in accordance with paragraph (d) of § 1.446–1, the acquiring corporation shall not be permitted to continue to use such different methods of taking inventories, and shall adopt the method of taking inventories described in paragraph (c) of this section for such types of goods unless, in accordance with paragraph (d) of this section, consent of the Commissioner is obtained to use a different method of taking inventories.

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). O and P corporations are manufacturing companies which compute their entire inventories by the use of the last-in, first-out method of identification and the cost basis of valuation. In applying the last-in, first-out method both corporations use the dollar-value method and the double-extension method. However, O corporation pools under the natural business unit method while P corporation pools under the multiple pool method. In addition, O corporation determines the cost of its annual inventory increase by reference to the actual cost of goods most recently purchased, whereas P corporation determines the cost of such increase by reference to the actual cost of the goods purchased during the taxable year in the order of acquisition. P corporation acquires the assets of O corporation in a transaction to which section 381(a) applies and integrates the business formerly operated by O corporation into the business which was operated by P corporation before the date of distribution of transfer. Under the provisions of subdivision (i) of this subparagraph (relating to the same inventory methods in an integrated trade or business), P corporation shall continue to use the last-in, first-out method of identification, the cost basis of valuation, and in applying the last-in, first-out method, shall continue to use the dollar-value method and the double-extension method, unless, in accordance with paragraph (e) of § 1.446–1, consent of the Commissioner is obtained to change the method of taking inventories. However, under the provisions of subdivision (ii) of this subparagraph (relating to different inventory methods in an integrated trade or business), P corporation shall use the method of taking inventories described in paragraph (c) of this section with respect to the method of pooling and the method of determining the cost of annual inventory increases, unless, in accordance with paragraph (d) of this section, consent of the Commissioner is obtained to use a different method of taking inventories.

Example (2). Y and Z corporations are engaged in the manufacture of cereal products. Y corporation uses the first-in, first-out method of identification and the cost or market, whichever is lower, method of valuing its inventories, including oats. Z corporation uses the first-in, first-out method of identification and the cost or market, whichever is lower, method of valuing its inventories, except oats which are valued on the cost method. Y corporation acquires all of the assets of Z corporation in a transaction to which section 381(a) applies and integrates the business formerly operated by Z corporation into the business which was operated by Y corporation before the date of distribution or transfer. Under the provisions of subdivision (i) of this subparagraph (relating to the same inventory methods in an integrated trade or business), Y corporation must continue to use the first-in, first-out method with respect to all of its inventories and must continue to use the cost or market, whichever is lower, method of valuing all inventories except oats, unless, in accordance with paragraph (e) of § 1.446–1, consent of the Commissioner is obtained to change the method of taking inventories. In addition, under the provisions of subdivision (ii) of this subparagraph (relating to different inventory methods in an integrated trade or business), Y corporation shall use the method described in paragraph (c) of this section in valuing its inventory of oats, unless, in accordance with paragraph (d) of this section, consent of the Commissioner is obtained to use a different method of valuing its oats.

(4) *Rules of application.* (i) In any case where the method of taking inventories employed on the date of distribution or transfer is continued, it will be unnecessary for the acquiring corporation to renew any election previously made by it or by any distributor or transferor corporation with respect to such method of taking inventories, and the acquiring corporation is bound by any such elections. If, on the date of distribution or transfer, any party to a section 381(a) transaction had no inventories of a particular type of goods, or such party came into existence as a result of the transaction, such party shall not be considered to be using a method of taking inventories for the particular type of goods different from that used by the other parties to the transaction. If, on the date of distribution or transfer, any one of the parties to the transaction is using the cash receipts and disbursements method of accounting and is not required to take inventories, the determination as to whether such method of accounting is to be continued by the acquiring corporation shall be made in accordance with section 381(c)(4) and the regulations thereunder.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). M corporation is engaged in manufacturing and computes its inventories under the first-in, first-out method of identification and the cost or market, whichever is lower, method of valuation. N corporation is also engaged in manufacturing and computes its inventories under the first-in, first-out method of identification and the cost method of valuation. M corporation acquires the assets of N corporation in a transaction to which section 381(a) applies and M corporation integrates the business formerly operated by N corporation into the business which was operated by M corporation before the date of distribution or transfer. On the date of distribution or transfer, N corporation has inventories of sheet steel while M corporation has no inventories of this particular type of goods. In all other respects the inventories of the two corporations consist of similar types of goods. Under the provisions of this subparagraph, M corporation must use the first-in, first-out method of identification and the cost method of valuation of inventories of sheet steel, unless, in accordance with paragraph (e) of § 1.446–1, consent of the Commissioner is obtained to change the method of taking such inventories. For other goods in its inventories M corporation must use the first-in, first-out method of identification (as required by subparagraph (3)(i) of this paragraph), and, with respect to the method of valuation, must use the method of taking inventories described in paragraph (c) of this section, unless, in accordance with paragraph (d) of this section, consent of the Commissioner is obtained to use a different method of taking inventories.

Example (2). W corporation is engaged in the business of raising cattle and uses the cash receipts and disbursements method of computing taxable income. Inventories, therefore, are not required. X corporation is also engaged in the business of raising cattle and uses the accrual method of computing taxable income under which it has elected to use the "farm-price method" of valuing inventories. The assets of W corporation are acquired by X corporation in a transaction to which section 381(a) applies and X corporation integrates the business formerly operated by W corporation into the business which was operated by X corporation before the date of distribution or transfer. Under the provisions of this subparagraph, whether X corporation is required to take inventories will depend upon which method of accounting is used by X corporation after the date of distribution or transfer, in accordance with the provisions of section 381(c)(4) and the regulations thereunder. Therefore, if X corporation uses the cash receipts and disbursements method, it will not be required to take inventories into account in computing its taxable income. However, if X corporation uses the accrual method, it must use the "farm-price method" of taking inventories, unless, in accordance with paragraph (d) of this section, consent of the Commissioner is obtained to use a different method of taking inventories.

(c) *Change of method of taking inventories without consent of Commissioner*—(1) *General rule.* If, under the provisions of paragraph (b) of this section, the acquiring corporation is not permitted to continue to use the method of taking inventories used by it or by the distributor or transferor corporation or corporations on the date of distribution or transfer, the acquiring corporation shall use the principal method of taking inventories for each particular type of goods of such corporations, as determined under subparagraph (2) of this paragraph: *Provided,* That:

(i) Such method clearly reflects the income of the acquiring corporation after the distribution or transfer as provided by sections 446(a) and 471 and the regulations thereunder, and

(ii) The use of such method is not inconsistent with the provisions of any closing agreement entered into under section 7121 and the regulations thereunder.

If the principal method does not satisfy the requirements of subdivisions (i) and (ii) of this subparagraph, or if the acquiring corporation wishes to use a method other than the principal method, see paragraph (d)(1) of this section. The adjustments necessary to reflect the change from the method of taking inventories previously used by any of the corporations involved (including any adjustments required by section 481), shall

be determined and computed in the same manner as if, on the date of distribution or transfer, each of the several corporations that were not using the principal method of taking inventories had initiated a change in the method of taking inventories. However, such adjustments (as an item of income or deduction, as the case may be) shall be taken into account solely by the acquiring corporation in computing its taxable income. If the principal method of taking inventories is adopted under this paragraph, it will not be necessary for the acquiring corporation or corporations to renew any election previously made by it or by the distributor or transferor corporation with respect to such principal method of taking inventories, and the acquiring corporation is bound by any such election.

(2) *Principal method of taking inventories.* The determination of the principal method of taking inventories shall be made with respect to each particular type of goods of each integrated trade or business operated by the acquiring corporation immediately after the date of distribution or transfer. Such determination for each integrated trade or business shall be made by reference to the methods of taking inventories previously used in the component trades or businesses for such types of goods which constitute the subsequent integrated trade or business of the acquiring corporation. The fair market value of the particular types of goods of each group of component trades or businesses with respect to which one method of taking inventories common to all was employed shall be compared with the fair market value of comparable types of goods of other groups of component trades or businesses with respect to which another method of taking inventories common to all was employed. For purposes of the above comparison and to the extent that particular types of goods are included in inventory by grouping or pooling, then such group or pool shall be considered as a single unit. The total fair market value of such group or pool shall be the basis for comparison in determining the principal method of taking inventories. The method of taking inventories of the group of component trades or businesses having the larget fair market value of such inventories shall be the principal method of taking inventories. For purposes of this subparagraph, the fair market value of the inventories of a component trade or business shall be determined immediately after the date of distribution or transfer.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). (i) X, Y, and Z corporations are all engaged in the manufacture of sheet metal. In addition, Y and Z corporations are engaged in the manufacture of paper containers. X and Y corporations use the first-in, first-out method of idenifying goods and the cost method of valuing all inventories, while Z corporation uses the first-in, first-out method of identifying goods and the cost or market, whichever is lower, method of valuing all inventories. X, Y, and Z corporations enter into a transaction to which section 381 (a) applies, and the acqiuring corporation integrates the sheet metal businesses formerly operated by X, Y, and Z corporations and also integrates the paper container businesses formerly operated by Y and Z corporations. Each corporation has the same types of goods in the inventories of its sheet metal business and Y and Z corporations have the same types of goods in the inventories of their paper container businesses. Immediately after the date of distribution or transfer the fair market values of the respective inventories are as follows:

	X	Y	Z
Sheet metal	$10,000	$7,000	$15,000
Paper container		6,000	7,000

(ii) Since X, Y, and Z corporations all used the first-in, first-out method of identifying their inventories as of the date of distribution or transfer, then, under the provisions of paragraph (b)(3)(i) of this section, the acquiring corporation shall continue to use the first-in, first-out method of identifying all goods unless, in accordance with paragraph (e) of § 1.446–1, consent of the Commissioner is obtained to change the method of accounting.

(iii) Since the acquired corporations used different methods of valuing inventories in their sheet metal business and their paper container business, when the businesses were integrated the acquiring corporation must, under the provisions of this paragraph, determine which method of inventory valuation used by the acquired corporations on the date of distribution or transfer is the principal method of inventory valuation for each of such businesses.

(*a*) In determining which is the principal method of valuing inventories for the sheet metal business pursuant to subparagraph (2) of this paragraph, the total fair market value of the sheet metal inventories of X and Y corporations, $17,000 (i.e., $10,000 + $7,000 = $17,000), is compared with the fair market value of the sheet metal inventory of Z corporation, $15,000. Since the total fair market value of the sheet metal inventories of X and Y corporations ($17,000) exceeds the fair market value of the sheet metal inventory of Z corporation ($15,000), the cost method of valuation used by X and Y corporations is the principal method of taking such inventories, and must be used by the acquiring corporation in valuing such inventories, if the conditions set forth in subdivision (i) of this paragraph are satisfied.

(*b*) In determining which is the principal method of valuing inventories for the paper container business pursuant to subparagraph (2) of this paragraph, the fair market value of the paper container inventory of Y corporation ($6,600) is compared with the fair market value of the paper container inventory of Z corporation ($7,000). Since the fair market value of the paper container inventory of Z corporation ($7,000) exceeds the fair market value of the paper container inventory of Y corporation ($6,000), the cost or market, whichever is lower, method of valuation used by Z corporation is the principal method of taking such inventories, and must be used by the acquiring corporation in valuing such inventories, if the conditions set forth in subparagraph (1) of this paragraph are satisfied.

Example (2). (i) X, Y, and Z corporations are all engaged in the manufacture of electrical appliances. In addition, X and Z corporations are engaged in the manufacture of plastic containers. X corporation uses the first-in, first-out method of identifying goods and the cost method of valuing all inventories. Y and Z corporations use the last-in, first-out method of identifying goods and the cost method of valuing all inventories. In applying the last-in, first-out method, Y corporation uses the dollar value method, the double-extension method, and pools under the natural business unit method, while Z corporation uses the dollar value method, the double-extension method, and pools under the multiple pooling method for all inventories. X, Y, and Z corporations enter into a transaction to which section 381(a) applies, and the acquiring corporation integrates the electric appliance businesses formerly operated by X, Y, and Z corporations and also integrates the plastic container businesses formerly operated by X and Z corporations. Each corporation has the same types of goods in the inventories of its electric appliance business and X and Z corporations have the same types of goods in the inventories of their plastic container businesses. Immediately after the date of distribution or transfer, the fair market values of the respective inventories are as follows:

	X	Y	Z
Electric appliance	$13,000	$10,000	$5,000
Plastic container	7,000		6,000

(ii) Since X, Y, and Z corporations all used the cost method of valuing their inventories as of the date of distribution or transfer, then, under the provisions of paragraph (b)(3)(i) of this section, the acquiring corporation shall continue to use the cost method of valuing all goods unless, in accordance with paragraph (e) of § 1.446–1, consent of the Commissioner is obtained to change the method of accounting.

(iii) Since the acquired corporations used different methods of identifying inventories in their electric appliance business and their plastic container business, when the businesses were integrated the acquiring corporation must, under the provisions of this paragraph, determine which method of inventory identification used by the acquired corporations on the date of distribution or transfer is the principal method of inventory identification for each of such businesses.

(*a*)(*1*) In determining which is the principal method of identifying inventories for the electric appliance business pursuant to subparagraph (2) of this paragraph, the fair market value of the electric appliance inventory of X corporation, $13,000, is compared with the total fair market value of the electric appliance inventories of Y and Z corporations, $15,000 (i.e., $10,000 + $5,000 = $15,000). Since the total fair market value of the electric appliance inventories of Y and Z corporations ($15,000) exceeds the fair market value of the electric appliance inventory of X corporation ($13,000), the last-in first-out method of identification is the principal method of taking the electric appliance inventories and must be used by the acquiring corporation, if the conditions set forth in subparagraph (1) of this paragraph are satisfied.

(*2*) Since Y and Z corporations used different pooling methods, in applying the last-in, first-out method, the acquiring corporation must, under the provisions of this paragraph, determine which pooling method as used by Y and Z corporations on the date of distribution or transfer is the principal method. In making such determination pursuant to subparagraph (2) of this paragraph, the fair market value of the electric appliance inventory of Y corporation

($10,000) is compared with the fair market value of the electric appliance inventory of Z corporation ($5,000). Since the fair market value of the electric appliance inventory of Y corporation ($10,000) exceeds the fair market value of the electric appliance inventory of Z corporation ($5,000), the natural business unit method is the principal method of pooling and must be used by the acquiring corporation in applying the last-in, first-out method with respect to the electric appliance business, if the conditions set forth in subparagraph (1) of this paragraph are satisfied.

In addition, under the provisions of paragraph (b)(3)(i) of this section, the acquiring corporation must use the dollar value method and the double-extension method for valuing goods in its electric appliance inventory since Y and Z corporations both used such methods in valuing their electric appliance inventories as of the date of distribution or transfer, unless, in accordance with paragraph (e) of § 1.446–1, consent of the Commissioner is obtained to change the method of accounting.

(*b*) In determining which is the principal method of identifying inventories for the plastic container business pursuant to subparagraph (2) of this paragraph, the fair market value of the plastic container inventory of X corporation ($7,000) is compared with the fair market value of the plastic container inventory of Z corporation ($6,000). Since the fair market value of the plastic container inventory of X corporation ($7,000) exceeds the fair market value of the plastic container inventory of Z corporation ($6,000) the first-in, first-out method of identification, as used by X corporation, is the principal method of taking the plastic container inventories and must be used by the acquiring corporation, if the conditions set forth in subparagraph (1) of this paragraph are satisfied.

(d) *Change of method of taking inventories with consent of the Commissioner*—(1) *General rule*—(i) *Carryover and principal method not permitted.* If the acquiring corporation is not permitted, under paragraph (b) of this section, to continue to use the method of taking inventories used by it or the distributor or transferor corporation or corporations on the date of distribution or transfer, and is not permitted, under paragraph (c) of this section, to use the principal method of taking inventories, then such acquiring corporation must request the Commissioner to determine the appropriate method of taking inventories.

(ii) *Principal method required.* If the acquiring corporation wishes to use a method of taking inventories other than the principal method of taking inventories which is required to be used under paragraph (c) of this section, it shall apply to the Commissioner for permission to use such other method of taking inventories. Permission to use such other method of taking inventories will not be granted unless the acquiring corporation and the Commissioner agree to the terms, conditions, and adjustments under which the change to such method will be effected.

(iii) *Rules for making adjustments.* Whenever this paragraph applies, the adjustments necessary to reflect the change from the method of taking inventories previously used by any of the corporations involved (including any adjustments required by section 481) to a method required or permitted under this paragraph shall be determined and computed in the same manner as if, on the date of distribution or transfer, each of the several corporations that were not using the method of taking inventories adopted pursuant to this paragraph had initiated a change in the method of taking inventories. However, such adjustments (as an item of income or deduction, as the case may be) shall be taken into account solely by the acquiring corporation in computing its taxable income.

(2) *Time and manner of making application.* Request for a determination of the method of taking inventories to be used under subparagraph (1)(i) of this paragraph or applications for permission to use a method of taking inventories under subparagraph (1)(ii) of this paragraph shall be filed with the Commissioner of Internal Revenue, Attention: T:I:C, Washington, D.C. 20224, not later than 90 days after the date of distribution or transfer, except that in cases where the date of distribution or transfer occurs before the date of publication of final regulations under this section in the FEDERAL REGISTER, such applications or requests shall be filed not later than 90 days after such date of publication. The application shall be accompanied by a copy of the statement described in paragraph (b)(3) of § 1.381(b)–1, and by a statement specifying the nature of the transaction which causes section 381 to apply; the differences in methods of taking inventories used by the corporations concerned; the method of taking inventories proposed to be used by the acquiring corporations; and the amount of adjustments necessary to prevent duplication or omission of items in the computation of taxable income under such proposed method. The Commissioner may also require such other information as may be necessary in order to determine the proper method of taking inventories to be used by the acquiring corporation.

(e) *Special rules under last-in, first-out method*—(1) *Permission to use the last-in, first-out method.* (i) Notwithstanding the provisions of paragraph (b)(3) or (c) of this section, in any case where the last-in, first-out method has been used with respect to a particular type of goods by any party to a section 381(a) transaction, the acquiring corporation may elect, without the consent of the Commissioner, to use, immediately after the date of distribution or transfer, the last-in, first-out method with respect to all goods of such type without regard to the principal method of taking inventory. If the particular types of goods subject to this election are included in inventory by grouping or pooling by any party, then the election provided by this paragraph must be exercised for all such goods comprising the entire group or pool. If an election is made under this paragraph, the acquiring corporation shall not be required to file a new Form 970 electing the last-in, first-out method for such goods, but instead such corporation must include such goods under the election made by the party which elected the last-in, first-out method and is bound by such previous election. The adjustments necessary to reflect the change from the method of taking inventories previously used by any of the corporations involved (including any adjustments required by section 481) to the last-in, first-out method of taking inventories permitted under this paragraph shall be determined and computed in the same manner as if, on the date of distribution or transfer, each of the several corporations that were not using the method of taking inventories permitted under this pargraph had initiated a change in the method of taking inventories. However, such adjustments (as an item of income or deduction, as the case may be) shall be taken into account solely by the acquiring corporation in computing its taxable income. The acquiring corporation should attach to its income tax return, for the first taxable year ending after the date of distribution or transfer, copies of the Form 970 which were previously filed with the district director by any of the parties to the transaction.

(ii) Goods of a particular type which are held by parties to the section 381(a) transaction and which were not identified and valued under the last-in, first-out method prior to the date of distribution or transfer shall not by reason of subdivision (i) of this subparagraph be identified and valued under such method before the date of distribution or transfer. For example, assume that X corporation, which had elected to use the last-in, first-out method of taking inventories for its taxable year ending December 31, 1952, and thereafter, and Y corporation, which had never elected to use the last-in, first-out method of taking inventories, entered into a section 381(a) transaction on March 1, 1958. Both corporations operate similar businesses and include the same type of goods in inventory. Y is the acquiring corporation and its method of taking inventories is the principal method, but under the provisions of this paragraph it elects to use the last-in, first-out method of taking inventories for all goods of the same type after the date of distribution or transfer. Y corporation may not identify and value any goods that it held prior to the date of distribution or transfer under the last-in, first-out method before March 1, 1958.

(2) *Carryover of base year inventories and layers of increment.* In any case where the acquiring corporation is required or permitted to use the last-in, first-out method the base-year inventories and any layers of increment for such inventories prior to the date of the transaction to which section 381(a) applies, must be retained, except that all base-year inventories or layers of increment which occur in the same taxable year must be combined.

(3) *Section 1321 election.* For purposes of applying section 1321, and the regulations thereunder, relating to the

involuntary liquidation of last-in, first-out inventories, the acquiring corporation shall be treated as though it were the distributor or transferor corporation.

(f) *Treatment of layers of inventories by the acquiring corporation*—(1) *Acquiring corporation uses the last-in, first-out method of computing inventories.* In any case where the acquiring corporation is required or permitted to use the last-in, first-out method, the inventories of all parties to the section 381(a) transaction which are required or permitted to be changed to the last-in, first-out method shall be treated by the acquiring corporation as having been acquired at their average unit cost in a single transaction on the date of distribution or transfer, for purposes of computing the base-year inventory or any layer of increment in the inventories of the acquiring corporation for the year of distribution or transfer.

(2) *Acquiring corporation uses the first-in, first-out method of computing inventories.* In any case where the acquiring corporation is required or permitted to use the first-in, first-out method, the inventories of all parties to the section 381(a) transaction which are required to be changed to the first-in, first-out method shall be treated by the acquiring corporation as having been acquired at their average unit cost in a single transaction on the date of distribution or transfer, for purposes of computing the inventories of the acquiring corporation for the year of distribution or transfer. However, if the acquiring corporation is required or permitted to use the first-in, first-out method of taking inventories and values such inventories at cost or market, whichever is lower, then the acquiring corporation shall be treated as having acquired the inventories which are required to be changed to the first-in, first-out method of all parties to the section 381(a) transaction at their average unit cost or market, whichever is lower, on the date of distribution or transfer.

(g) *Basis of inventories received.* The basis of inventories received by the acquiring corporation from a distributor or transferor corporation shall be determined in accordance with section 334(b)(1) or 362(b), and the regulations thereunder. See also section 1013, and the regulations thereunder.

(h) *Additional rules applicable to distributions or transfers before [insert the date of publication of final regulations under this section in the Federal Register]*—(1) *Statute of limitations bars assessment or refund.* If the date of distribution or transfer was before [insert the date of publication of final regulations under this section in the FEDERAL REGISTER], and if the assessment of any deficiency or the refund or credit of any overpayment for the taxable year of the acquiring corporation which includes the date of distribution or transfer or any subsequent taxable year is prevented by the operation of any law or rule of law, then this section does not authorize the Commissioner or the acquiring corporation to change any method or methods of computing inventories in any taxable year of the acquiring corporation. However, the Commissioner or the acquiring corporation may change such method or methods of computing inventories under the provisions of section 446, 471, or 472 and the regulations thereunder.

(2) *Statute of limitations does not bar assessment and refund.* Except as provided in subparagraph (1) of this paragraph—

(i) If the date of distribution or transfer was before [insert the date of publication of final regulations under this section in the FEDERAL REGISTER], and the acquiring corporation has, for the taxable year which includes the date of distribution or transfer:

(*a*) Adopted or continued a method or methods of taking inventories consistent with the rules of this section,

(*b*) Been granted permission by the Commissioner, in accordance with section 446, 471, or 472 and the regulations thereunder, to use a method or methods of taking inventories, or

(*c*) Adopted a method or methods of taking inventories that, under section 446, 471, or 472 and the regulations thereunder may be adopted without the consent of the Commissioner,

then the method or methods of taking inventories adopted or continued in the manner described in (*a*), (*b*), or (*c*) of this subdivision, shall not be changed, by reason of the rules contained in this section, by the Commissioner or by the acquiring corporation for any taxable year ending after the date of distribution or transfer. However, the Commissioner or the acquiring corporation may change such method or methods of taking inventories for any such taxable year under the provisions of, and to the extent permitted by, section 446, 471, or 472 and the regulations thereunder.

(ii) If the date of distribution or transfer was before [insert the date of publication of final regulations under this section in the FEDERAL REGISTER], and the acquiring corporation has, for the taxable year which includes the date of distribution or transfer, adopted or continued a method or methods of taking inventories other than in the manner described in (*a*), (*b*), *or* (*c*) of subdivision (i) of this subparagraph, then the acquiring corporation may—

(*a*) Continue to use the method or methods of taking inventories so adopted or continued if such method or methods clearly reflect income and if proper adjustments were made to reflect the adoption of such method or methods, or

(*b*) Adopt the method or methods of taking inventories prescribed by this section.

Such method or methods of taking inventories shall be adopted by filing an amended return (which includes the proper adjustments required by this section) for the taxable year of the acquiring corporation which includes the date of distribution or transfer, and by filing amended returns for all subsequent taxable years of the acquiring corporation for which returns have previously been filed. Such amended return or returns shall be accompanied by a copy of the statement described in paragraph (b)(3) of § 1.381(b)–1, and by a statement specifying the nature of the transaction which causes section 381 to apply; the difference in methods of taking inventories used by the corporation concerned; the method or methods of taking inventories originally adopted by the acquiring corporation; the method or methods of taking inventories adopted on the amended return or returns; and the computation of the amount of the adjustments and the resulting increase or decrease in tax.

(i) *Effective date.* This section is applicable with respect to taxable years beginning after [insert date of publication of final regulations under this section in the FEDERAL REGISTER]. However, if a taxpayer wishes to rely on the rules stated in this section for taxable years beginning before [insert date of publication of final regulations under this section in the FEDERAL REGISTER] it may do so, subject to the provisions of paragraph (h) of this section.

[FR Doc.72-14187 Filed 8-22-72;8:45 am]

[26 CFR Part 1]

INCOME TAX

Change of Annual Accounting Period by Certain Corporations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by September 25, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by September 25, 1972. In such case, a public hearing will be held and notice of time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to provide a rule with respect to certain corporations which seek to change their annual accounting periods under section 442 of the Internal Revenue Code of 1954, without prior approval of the Commissioner, § 1.442–1 of the Income Tax Regulations is amended by revising subdivisions (iii) and (iv) of paragraph (c)(2) and by adding a subdivision (v) to paragraph (c)(2). These revised and added provisions read as follows:

§ 1.442–1 Change of annual accounting period.

* * * * *

(c) *Special rule for certain corporations.* * * *

(2) * * *

(iii) The taxable income of the corporation for the short period required to effect the change of annual accounting period is, if placed on an annual basis (see paragraph (b)(1) (i) and (ii) of § 1.443–1), 80 percent or more of the taxable income of the corporation for the taxable year immediately preceding such short period;

(iv) If a corporation had a special status either for the short period or for the taxable year immediately preceding such short period, it must have the same special status for both the short period and such taxable year (for the purpose of this subdivision, special status includes only: a personal holding company, a foreign personal holding company, a corporation which is an exempt organization, a foreign corporation not engaged in trade or business within the United States, a Western Hemisphere trade corporation, and a China Trade Act corporation); and

(v) The corporation does not attempt to make an election under section 1372 (a) that purports to initially become effective with respect to a taxable year which (*a*) would immediately follow the short period required to effect the change of annual accounting period, and (*b*) would begin after August 23, 1972.

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[FR Doc.72–14188 Filed 8–22–72;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 993]

DRIED PRUNES PRODUCED IN CALIFORNIA

Proposed Expenses and Rate of Assessment for 1972–73 Crop Year

Notice is hereby given of a proposal regarding expenses of the Prune Administrative Committee for the 1972–73 crop year and rate of assessment for that crop year, pursuant to §§ 993.80 and 993.81 of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Prune Administrative Committee has recommended for the crop year beginning August 1, 1972, a budget of expenses in the total amount of $180,500 and a rate of assessment of $1.90 per ton of assessable prunes. Expenses in that amount and the rate of assessment are specified in the proposal hereinafter set forth. The assessable tonnage is estimated by the Committee at 95,000 natural condition tons.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should 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 September 1, 1972. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 993.323 Expenses of the Prune Administrative Committee and rate of assessment for the 1972–73 crop year.

(a) *Expenses.* Expenses in the amount of $180,500 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1972, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at $1.90 per ton of salable prunes handled by him as the first handler thereof.

Dated: August 18, 1972.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–14231 Filed 8–22–72;8:48 am]

[7 CFR Parts 1006, 1012, 1013]

[Dockets Nos. AO–356–A10, AO–347–A14, AO–286–A22]

MILK IN UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Decision (Partial) on Proposed Amendments to Marketing Agreements and to Orders

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Orlando, Fla., on May 24, 1972, pursuant to notice thereof issued on May 9, 1972 (37 F.R. 9565).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on July 20, 1972 (37 F.R. 14786), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, with the following modification:

Section 1013.11 is deleted and the substance of that section is included in the parenthetical expression following the words "who produces milk" in § 1013.12.

The material issues on the record 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.

RULINGS ON EXCEPTIONS

No exceptions were filed to the recommended decision. Responses were filed on behalf of the proponent cooperatives and certain handlers. The responses indicated concurrence with the findings and proposed amendments of that decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the orders regulating the handling of milk in the aforesaid specified marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

May 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid specified marketing areas is approved or favored by producers, as defined under the terms of each of the orders, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the respective marketing areas.

Signed at Washington, D.C., on August 18, 1972.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] *Amending the Orders, Regulating the Handling of Milk in Certain Specified Marketing Areas*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of 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 orders:

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

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

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

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

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the specified orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending each of the specified orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on July 20, 1972, and published in the FEDERAL REGISTER on July 25, 1972 (37 F.R. 9565) shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein.

PART 1006—MILK IN UPPER FLORIDA MARKETING AREA

GENERAL PROVISIONS

Sec.
1006.1 General Provisions.

DEFINITIONS

1006.2 Upper Florida marketing area.
1006.3 Route disposition.
1006.4 [Reserved]
1006.5 Distributing plant.
1006.6 Supply plant.
1006.7 Pool plant.
1006.8 Nonpool plant.
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1006.10 Producer-handler.
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1006.12 Producer.
1006.13 Producer milk.
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HANDLER REPORTS

1006.30 Reports of receipts and utilization.
1006.31 Payroll reports.
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CLASSIFICATION OF MILK

1006.40 Classes of utilization.
1006.41 Shrinkage.
1006.42 Classification of transfers and diversions.
1006.43 General classification rules.
1006.44 Classification of producer milk.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Sec.

1006.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1006.50 Class prices.
1006.51 Basic formula price.
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1006.60 Handler's value of milk for computing uniform price.
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PAYMENTS FOR MILK

1006.70 Producer-settlement fund.
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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1006.85 Assessment for order administration.
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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.
Baker.
Bay.
Bradford.
Brevard.
Calhoun.
Citrus.
Clay.
Columbia.
Dixie.
Duval.
Flagler.
Franklin.
Gadsden.
Gilchrist.
Gulf.
Hamilton.
Holmes.
Jackson.
Jefferson.
Lafayette.
Lake.
Leon.
Levy.
Liberty.
Madison.
Marion.
Nassau.
Orange.
Osceola.
Putnam.
St. Johns.
Seminole.
Sumter.
Suwannee.
Taylor.
Union.
Volusia.
Wakulla.
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 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 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); and

(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 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 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 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)(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 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 § 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

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

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1012.86 Deduction for marketing services.

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 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)(6).

§ 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 assign-

ment 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 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 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:	
For each 10 miles or fraction thereof from the City Hall in Tampa, Fla.	Subtract 1.5 cents.
Inside the State of Florida:	
In the defined marketing area of Part 1013.	Add 20 cents.
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 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 § 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 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 §§ 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 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.

§ 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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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

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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) of this section 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) of this section 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 products (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 [Reserved]

§ 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 (and who is responsible for the milk production enterprise on a continuing basis as to management and risk) 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 association, 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 di-

verted 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 Reports 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 butter-

milk, 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(a) 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 section 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 producer-handlers and exempt plants defined in any other 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 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 accuracy 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.

[FR Doc.72-14282 Filed 8-22-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-NW-08]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Walla Walla, Wash., Transition Area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures, and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received within 30 days after publication of this Notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this Notice in order to become part of the record for consideration. The proposal contained in this Notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

A new Instrument Landing System (ILS) approach procedure is proposed for the Walla Walla City County Airport, Walla Walla, Wash. A review of the airspace requirements reveals that additional 700' Transition Area airspace would be required to provide controlled airspace protection for aircraft executing the proposed approach procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (37 F.R. 2143) the description of the Walla Walla, Wash., Transition Area is amended as follows:

In the first line of the text, between the phrase, "* * * 700 feet above the surface * * *", and the phrase, "* * * within 5 miles southeast * * *", insert the following: within 4 miles each side of the Walla Walla VOR 036° radial, extending from the VOR to 16 miles northeast;"

This amendment is proposed under the authority of Section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on August 15, 1972.

J. H. TANNER,
Acting Director.

[FR Doc.72-14197 Filed 8-22-72;8:46 am]

Federal Highway Administration

[49 CFR Part 391]

[Docket No. MC-40; Notice No. 72-11]

DRIVERS OF COMMERCIAL MOTOR VEHICLES

Disqualification and Waivers of Certain Physical Defects; Correction

In F.R. Doc. 72-12118 appearing at page 15709 in the issue of Friday, August 4, 1972, the following correction should be made.

In § 391.15(e)(4) the reference to paragraph "(c)" is corrected to read "(d)".

Issued on August 11, 1972.

KENNETH L. PIERSON,
Acting Director, Bureau of Motor Carrier Safety.

[FR Doc.72-14211 Filed 8-22-72;8:47 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 69-29; Notice 3]

MOTOR VEHICLE SAFETY STANDARD NO. 212

Occupant Crash Protection

This notice would amend Motor Vehicle Safety Standard No. 212, "Windshield Mounting," by expanding its application to include additional types of vehicles, and by amending the standard's requirements and test procedures to take into account the requirements and test procedures of Motor Vehicle Safety Standard No. 208, "Occupant Crash Protection" (36 F.R. 4600).

Motor Vehicle Safety Standard No. 212 was published August 16, 1968 (33 F.R. 11652) and was effective January 1, 1970. At present, its application is only to passenger cars. An advance notice of proposed rule making that was published September 16, 1969 (34 F.R. 14438), and republished for purposes of clarification on November 27, 1969 (34 F.R. 18941), suggested extending the requirements of the standard to multipurpose passenger vehicles, trucks, buses, and motor vehicle equipment containing windows, such as pickup campers, pickup caps, and pickup canopies. This notice represents a continuation of the rule making action begun by that advance notice.

Based on the comments received, and other available information, this notice proposes to extend the standard to multipurpose passenger vehicles, trucks, and buses, having a gross vehicle weight rating (GVWR) up to 10,000 pounds. It is recognized that forward control vehicles may have difficulty achieving windshield retention since objects impacted by the front of such a vehicle tend to either impact the windshield itself, or deform the windshield mounting. Recognizing this problem, the standard would not be applicable to forward control vehicles until September 1, 1978.

The standard presently specifies that windshield mountings in passenger cars meet one of two alternative requirements: (a) 75 percent retention when the vehicle is impacted perpendicularly into a fixed collision barrier at a forward longitudinal velocity of 30 m.p.h., or (b) 50 percent retention, if an unrestrained 95th percentile adult male manikin is seated in each outboard front seating position, when the vehicle is perpendicularly impacted into a fixed collision barrier at a forward longitudinal velocity of 30 m.p.h. Observation of test data and accident reports indicates that vehicles that presently meet the 75 percent retention requirement of alternative (a) where anthropomorphic test devices are not used can generally meet the same 75 percent retention requirement using an unrestrained anthropomorphic test device. Therefore, alternative (b) of the standard has been deleted.

The introduction of passive restraints may in the future necessitate some changes in the present requirements. However, Standard No. 212 will apply to those vehicles covered by the passive protection requirements of Standard No. 208.

A newly proposed vehicle loading requirement is intended to make the test procedure compatible with the test procedure of Motor Vehicle Safety Standard No. 208, "Occupant Crash Protection."

Proposed effective date: September 1, 1974, except that for forward control vehicles the effective date is September 1, 1978.

In light of the above, it is proposed that Motor Vehicle Safety Standard No. 212, "Windshield Mounting," 49 CFR 571.212, be amended to read as set forth below.

Interested persons are invited to submit data, views, and arguments concerning the proposed standard. Comments should refer to the docket and notice numbers, and be submitted to: Docket Section National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. All comments received before the close of business on November 22, 1972 will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments received after the above date will also be considered. However, the rule making may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes, available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407) and delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on August 15, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

§ 571.212 **Standard No. 212, Windshield Mounting.**

S1. *Scope.* This standard establishes windshield retention requirements for motor vehicles.

S2. *Purpose.* The purpose of this standard is to provide for retention of the vehicle windshield during a crash, in order to utilize fully the penetration-resistance and injury-avoidance properties of the windshield glazing material, and to prevent ejection of occupants from the vehicle.

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks, and buses having a GVWR of 10,000 pounds or less.

S4. *Requirement.* When the vehicle is tested in accordance with S5, the windshield mounting shall retain not less than 75 percent of the windshield periphery.

S5. *Test Procedure.*

S5.1 Load the vehicle in the manner specified by the applicable provisions of S8.1 of Motor Vehicle Safety Standard No. 208, with anthropomorphic test devices placed and restrained as specified in applicable provisions of S4 and S5.1 of that standard.

S5.2 With the vehicle traveling longitudinally forward at any speed up to and including 30 m.p.h., impact a fixed collision barrier that is perpendicular to the line of travel of the vehicle.

[FR Doc.72-14245 Filed 8-22-72;8:49 am]

FEDERAL MARITIME COMMISSION

[46 CFR Ch. IV]

[Docket No. 72-41]

PORT OF NEW YORK

Proposed Truck Detention

On February 25, 1969, the Federal Maritime Commission served its report and order in Docket No. 1153, "Truck and Lighter Loading and Unloading Practices at New York Harbor," 12 F.M.C. 166 (1969). In that proceeding the Commission promulgated rules which provided that motor vehicles loading or unloading waterborne freight at piers or marine terminals of members of the New York Terminal Conference shall be entitled to receive compensation (detention charges) under certain circumstances for delays at piers. Thereafter, on May 16, 1969, the Commission instituted Docket No. 69-28 to determine whether the rules and regulations prescribed by the Commission in "Truck and Lighter Loading and Unloading Practices at New York Harbor, supra," have been ineffectual (because of alleged claims of uncertainty as to the time within which documentation is to be completed, procedures for issuing gate passes, and the right and obligation of terminal operators to turn motor vehicles away from the pier without detention running), and thus require revision. At the hearing held in New York on March 17, 1970, the Presiding Examiner granted motions to recess so that the parties could file formal petitions to expand Docket No. 69-28 to include additional parties and issues. It was requested that nonconference terminal operators at the Port of New York be made respondents; and that various problems of detention relating to containerized shipments be examined. By our order served May 18, 1970, we denied the petitions noting that although "valid issues were raised by petitioners, we do not believe this to be the proper forum for their resolution as to do otherwise would unduly complicate the proceeding."

The specific problems raised in Docket 69-28 comprise merely one portion of the general problem of congestion involving truck loading and unloading throughout the Port of New York. Since our order of May 18, 1970, Hearing Counsel, together with all interested parties in Docket 69-28 had been meeting in an effort to arrive at a fair and reasonable rule which would alleviate the truck congestion problem. On June 14, 1972, Hearing Counsel moved the Commission to dismiss Docket 69-28 and institute a formal rule making proceeding based on a proposed rule which was the product of these 2 years of meetings and discussions. This proposed rule is broader in scope than the rule promulgated by the Commission in Docket 1153 and is likewise broader than the issues in Docket 69-28.

The Commission has previously concluded that terminal operators must provide reasonable pier facilities and complete service within a reasonable time, and the failure to do so is unreasonable within the meaning of section 17 of the Shipping Act, 1916 (46 U.S.C. 816). Docket No. 1153, "Truck and Lighter Loading and Unloading Practices at New York Harbor, supra; aff'd American Export Isbrandtsen Lines, Inc., et al.," 444 F. 2. 827 (1970).

From complaints filed with the Commission it appears that the receipt and delivery of cargo at marine terminal facilities throughout the Port of New York have not been accomplished in a reasonable manner, and that therefore terminal operators at the Port of New York are not providing reasonable pier facilities under the standards of section 17 of the Shipping Act, 1916. Thus, it is proposed that rules and regulations pertaining to motor carrier delay and congestion at the Port of New York

(Appendix A below) be promulgated in order to penalize delay which congests the Port of New York and encourage the expeditious movement of cargo through the port by simplifying documentation and minimizing the handling and preparation of documents at marine terminal facilities; encouraging the use of appointments and orderly scheduling of service of motor vehicles so as to maximize efficient utilization of marine terminal facilities; and by including within the scope of said rules, receipt and delivery of containerized as well as noncontainerized cargo and the activities of all terminal operators within the Port of New York.

Therefore, it is ordered, That the proceeding in Docket 69–28 be discontinued by separate order in that proceeding.

And it is further ordered, That the Commission, pursuant to sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821, 841(b)), enter upon this proposed rule making proceeding to determine whether the rule proposed (Appendix A below) is just and reasonable within the meaning of section 17 of the Shipping Act, 1916; and

It is further ordered, That notice of this order and proposed rules (Appendix A below) be published in the FEDERAL REGISTER:

And it is further ordered, That all interested persons may participate in this rule making proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 2, 1972, an original and 15 copies of their views and arguments pertaining to the proposed rules (Appendix A below). All suggestions for changes in the text of said proposed rules (Appendix A below) should be accompanied by the language thought necessary to accomplish the desired change and statements and arguments in support thereof. Hearing Counsel shall reply to said comments on or before November 3, 1972, by serving an original and 15 copies on the Commission and one copy to each party who filed written comments:

And it is further ordered, That should any such person or Hearing Counsel feel that an evidentiary hearing be required, that person shall accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. An original and 15 copies of requests for hearings shall be filed with the Secretary, Federal Maritime Commission, on or before November 3, 1972; and

It is further ordered, That this proceeding be assigned to an examiner of the Commission's Office of Hearing Examiners, who shall, if necessary, receive evidence on disputed facts, and make findings with respect to proposed additions, deletions, and modifications to said proposed rule (Appendix A below):

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding be published in the FEDERAL REGISTER, and in addition be mailed directly to all persons filing comments in accordance with the procedures enumerated above and to all other persons who notify the Secretary, Federal Maritime Commission, of their desire to receive such notice.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX A

A. *General provisions.* 1. The "Port of New York" is that area designated as "The Port District" on the map (Attachment A).[1]

2. A Terminal Operator is any person responsible for receipt of cargo from motor carriers and delivery of cargo to motor carriers in connection with ocean transportation, excluding marine terminal facilities operated or controlled by the Department of Defense including the military department and all agencies of the Department of Defense.

3. Motor carriers (common, contract, or private), terminal operators, steamship companies acting as terminal operators, and steamship companies whose action or inaction otherwise impede expeditious pickup and delivery of cargo by motor carriers at marine terminal facilities within the Port of New York shall be subject to the provisions established by terminal operators in accordance with this rule which provisions shall be reflected in the tariff of each such terminal operator.

4. Motor carriers, or importers, or exporters on whose behalf motor carriers act, or their agents, and terminal operators at marine terminal facilities in the Port of New York shall be entitled to receive remuneration in accordance with the provisions of this rule.

5. The party responsible for operating each marine terminal facility within the Port of New York shall identify itself to the Federal Maritime Commission not more than 10 days after the effective date of this rule and shall thereafter promptly notify the Commission of any change in responsibility. Based thereon, the Federal Maritime Commission (Commission) will publish and maintain a current list identifying, as to each such marine terminal facility, the party responsible for receipt and settlement of claims arising under this rule.

6. All communication to the Federal Maritime Commission required by this rule shall be to the Federal Maritime Commission, Office of the Secretary, 1405 I Street NW., Washington, D.C. 20573.

7. No penalty will be imposed under this rule if receipt or delivery of cargo at a marine terminal facility is prevented or delayed by any strike or work stoppage, or severe or unusual weather condition. The Commission shall be notified in writing by the party claiming the existence of the condition who shall specify the date and time of commencement and termination of any such strike, work stoppage, or severe or unusual weather condition. However, delays resulting from inadequate or insufficient labor, and/or equipment, other than reasonable delays necessary to obtain special equipment required for handling unusual cargo on a nonappointment basis, shall not absolve terminal operators from liability under this rule.

8. Terminal operators shall not be liable for delays due to refusal of an agency of the U.S. Government to release cargo; nor shall terminal operators be liable for time consumed by receipt or delivery of cargo by marks and numbers, or any other special service requiring sorting of cargo other than by bill of lading, provided at the request of the shipper, consignee or motor carrier.

9. Steamship companies responsible for house-to-house movement of containers, i.e., containers moving as a unit from origin to destination, are responsible under this rule for delay occasioned by lack of sufficient chassis, or unavailability, action or inaction of their container inspection personnel.

10. Disputes concerning liability under any provision of this rule shall be settled by an impartial Adjudicator selected by the Commission. (Such a party might be an "adjudicator" as proposed in Docket 71–33 as a substitute for Hearing Examiners in cases involving informal complaints over small claims. However, it would be advantageous if the party selected by the Commission were familiar with operations at the Port of New York.)

11. Terminal operators are not required to deliver cargo to motor carriers prior to the time that the ocean vessel which transported said cargo is fully discharged. If such cargo is delivered prior to the full discharge of said vessel, the terminal operator exercising this option shall notify the motor carrier that the cargo is on the pier, at its place of rest and segregated by bill of lading.

12. Marine terminal facilities in the Port of New York shall be operated in accordance with the appointment, nonappointment, or combination appointment/nonappointment procedures established by the terminal operator in accordance with this rule. Each terminal operator shall identify in its respective tariff whether its marine terminal facility will be operated on an appointment, nonappointment, or combination appointment/nonappointment basis. Said tariff shall incorporate the specific procedures at each such marine terminal facility which procedures shall be prominently displayed at the marine terminal facility and shall comply with the provisions of this rule.

B. *Documentation.* 1. (a) Delivery orders or dock receipts shall not be mailed or delivered to terminal operators, nor mailed or delivered to steamship companies for receipt on behalf of terminal operators, prior to arrival of motor carrier vehicles at marine terminal facilities. Upon arrival at marine terminal facilities, motor carrier vehicle operators shall have physical possession of documents required by this rule. Motor carrier vehicles whose drivers possess

[1] Filed as part of the original document.

documents required by this rule immediately shall be issued a sequentially numbered and time-stamped gate pass, and a blank paper bearing the same sequential number as the original gate pass upon which shall be duplicated all time stamps recorded on the original gate pass. Motor carrier vehicles whose drivers do not possess documents required by this rule, upon arrival at a marine terminal facility, shall be denied entry to the facility.

(b) Motor carriers shall be permitted to receive cargo on Open Delivery Orders, i.e. single delivery orders covering multiple truckloads or shipments, and deliver cargo on Open Dock Receipts, i.e., single dock receipts covering multiple truckloads or shipments, upon presenting to the terminal operator, subsequent to receipt or delivery of the initial load, satisfactory evidence of authorization to effect receipt or delivery of cargo, as established by the terminal operator and published in its tariff.

2. Dock receipts required as full and complete documentation for receipt of export cargo shall include the following information:

(a) Name and pro or other reference number of motor carrier.

(b) Name of forwarding agent. (If none, insert "none".)

(c) Shipper.

(d) Name of vessel.

(e) Pier, berth, or area designated for receipt of cargo.

(f) Port of discharge.

(g) Container identification number (on full contained loads).

(h) If cargo is to be transshipped, the port of final destination.

(i) Cargo to be held on dock should be so indicated in space provided for vessel name.

(j) Marks, number of packages, commodity, cube, and weight.

(k) An original and four copies of the dock receipt authorized by the steamship line that is to receive the cargo must be tendered to the terminal operator.

3. Delivery orders required as full and complete documentation for the delivery of import cargo shall provide the following information and conform to the Standard Form Delivery Order (Attachment B).[2]

(a) Name and address of party issuing delivery order.

(b) Address of terminal.

(c) Name and address of motor carrier making pickup.

(d) Vessel name.

(e) Voyage number.

(f) Bill of Lading number.

(g) Port of Lading.

(h) City of destination (on full container load).

(i) Container identification number (on full container loads).

(j) Marks, number of packages, commodity, cube, and weight. When partial lots are to be delivered, they should be identified by marks.

(k) Date free time expires.

(l) Date through which demurrage is paid/guaranteed after free time has expired.

(m) An original and one copy of the delivery order, the original legibly signed in ink, with the name of the signer typed below the signature, shall be tendered to the terminal operator.

4. (a) Terminal operators shall not honor delivery orders with strikeouts or other changes to the original.

(b) If a motor carrier named in an original delivery order substitutes another motor carrier in its place, the motor carrier named in the original delivery order shall provide a turnover order to the second carrier containing all information required by the original delivery order. Both the original delivery order and the turnover order must be presented to the terminal operator by the motor carrier requesting delivery of cargo. Upon written request, in accordance with procedures established by the terminal operator and published in its tariff, special arrangements may be made to accommodate general agency situations.

5. If a motor carrier presents documents to the terminal operator which do not contain all information required by this rule, said motor carrier may be required to surrender its gate pass and may be denied service; or, at the request of the motor carrier, the terminal operator may complete the incomplete document and serve said motor carrier in accordance with these rules.

6. If a motor carrier presents documents to the terminal operator which are complete but contain inaccurate information, said motor carrier may be required to surrender its gate pass and may be denied service; or, at the request of the motor carrier, the terminal operator may correct the deficient document and serve said motor carrier in accordance with these rules.

7. If documents are rejected by the terminal operator, or service is refused for any other reason, the terminal operator shall provide the motor carrier written explanation, time-stamped, of the deficiencies in documentation or other reason(s) for refusal of service, and shall attach thereto a copy of the deficient document, if any.

8. If a document is technically incorrect because of the substitution of one vessel for another, the redocking of a vessel from a scheduled pier to another, or the change in consignment of an export shipment from a scheduled vessel to another due to an early closeout of the scheduled vessel, the steamship company involved shall authorize, in writing, delivery of subject cargo. Delay occasioned by such changes of circumstances shall be excluded from computation of time for purposes of this rule.

C. *Terminals operating an appointment system.* Subject to the following provisions terminal operators shall establish the basis upon which appointments will be available and shall publish in their tariffs reasonable methods and procedures for booking appointments.

1. (a) Except for good cause, all requests for appointments shall be granted. If a request for an appointment is not granted, the terminal operator shall record the request and reason for refusal.

(b) Appointments, when granted, shall be identified by sequentially assigned numbers. The terminal operator shall record the date and time of request for appointments; the name of the person making the request; and the date, time, and identification number of scheduled appointments.

2. Appointments to receive delivery of cargo shall not be requested by motor carriers unless and until a freight release covering subject cargo has been authorized by the steamship company. Appointments shall be granted only if the terminal operator is advised of the nature, type and quantity of cargo to be delivered or received. If, because of the size, weight, or shape of the cargo, special equipment is required, the terminal operator shall so advise the motor carrier at the time the appointment is granted, and the motor carrier shall advise the terminal operator of the type of "rolling stock" which it will employ to effectuate the interchange of cargo.

3. (a) Motor carriers shall arrive at marine terminal facilities no later than 15 minutes prior to scheduled appointments. Gate passes conforming to the requirements of section B(1)(a) of this rule shall be issued to motor carriers by order of arrival. Motor carriers arriving after the time of a scheduled appointment shall be deemed to have missed the appointment and may be denied service.

(b) Except where a terminal operator has arranged for delivery of cargo on the last day of free time, or on the first or second day of demurrage, in accordance with section C(5)(b) of this rule, motor carriers may cancel appointments (without penalty) provided the terminal operator is given three (3) working hours' notice of said cancellation.

4. Computation of time for purposes of this rule shall commence at the time appointment at the marine terminal facility. Delay demonstrated by the terminal operator to be due to action or inaction of Bureau of Customs or other U.S. Government Agency personnel shall be excluded from computation.

5. (a) The first sentence of General Order 8, § 526.1(c), 46 CFR 526.1(c), shall be amended as follows:

(c) *Except as provided in* (insert citation to sections C(5)(b), D(5), and D(7) of this rule), where a carrier is for any reason, unable, or refuses, to tender cargo for delivery during free time, free time must be extended for a period equal to the duration of the carrier's disability or refusal.

(b) At full-appointment terminals, if an appointment is not available as requested, an appointment shall be granted within 72 hours (3 business days) of said request, except as provided by subparagraphs (1) and (2) of this paragraph.

(1) *Cargo permitted 5 days free time—Extension of free time.* (i) If an appointment is requested at least 48 hours prior to the expiration of free time, the terminal operator shall arrange to deliver cargo prior to expiration of free time, or extend free time until an appointment is granted.

[2] Filed as part of the original document.

(ii) If an appointment is requested less than 48 hours—but more than 24 hours—prior to expiration of free time, the terminal operator shall arrange for delivery of cargo prior to the close of business on the first working day of demurrage for which first demurrage day the cargo shall be liable, or, after said first demurrage day, cargo shall assume nondemurrage status until an appointment is granted.

(iii) If an appointment is requested less than 24 hours prior to expiration of free time, the terminal operator shall arrange for delivery of cargo prior to the close of business on the second working day of demurrage for which two (2) demurrage days the cargo shall be liable, or, after said two (2) demurrage days, cargo shall assume nondemurrage status until an appointment is granted.

(2) *Cargo permitted 2 or 3 days free time—Extension of free time.* (i) If an appointment is requested at least 24 hours prior to expiration of free time, the terminal operator shall arrange to deliver cargo prior to expiration of free time or extend free time until an appointment is granted.

(ii) If an appointment is requested less than 24 hours prior to expiration of free time, the terminal operator shall arrange for delivery of cargo prior to the close of business on the first working day of demurrage for which first demurrage day the cargo shall be liable, or, after said first demurrage day, cargo shall assume nondemurrage status until an appointment is granted.

D. *Terminals operating a nonappointment system.* 1. Each business day shall be divided into a number of "service periods" (for example, periods commencing at 8 a.m., 10 a.m., 1 p.m., 3 p.m.) as scheduled by the terminal operator according to the nature and capabilities of the particular facility.

2. Motor carriers arriving at marine terminal facilities shall be issued sequentially numbered, time-stamped gate passes in accordance with the requirements of section B(1)(a) of this rule, by order of arrival, valid for entry to the terminal facility no earlier than the time of commencement of the service period indicated thereon. (For example, if a truck arrives at 8 a.m. and service is not likely until the second service period (10 a.m.), the motor carrier would be issued a gate pass marked "valid for entry no earlier than 10 a.m.")

3. (a) Upon being admitted to a marine terminal facility, motor carriers holding dock receipts shall proceed to the receiving clerk of the terminal operator. After said dock receipts are determined to be in proper order, the motor carrier shall be routed for unloading.

(b) Upon being admitted to a marine terminal facility, motor carriers holding delivery orders or other satisfactory evidence of authorization to receive delivery of cargo shall proceed to Bureau of Customs, receive a time stamp upon completion of required procedures, and proceed to the delivery office of the terminal operator. After delivery orders or other satisfactory evidence of authorization to receive delivery of cargo are determined to be in proper order, the motor carrier shall be routed for loading.

4. Motor carriers shall be permitted to enter the marine terminal facility at the time validated on the gate pass, or for purposes of this rule, time will accrue from that validation time. If a motor carrier holding a dock receipt proceeds as per validation time, time for purposes of this rule will accrue from the validation time on the gate pass. If a motor carrier holding a delivery order proceeds as per validation time, time for purposes of this rule will accrue from the validation time on the gate pass, or from the time of issuance of the Customs' time stamp, whichever occurs last. (Thus, for example, a driver holding a delivery order who is issued a gate pass at 8 a.m., scheduling admission to the facility for 10 a.m., would be encouraged to process his papers during the 2-hour interim.) Delay demonstrated by the terminal operator to be due to action or inaction of Bureau of Customs or other U.S. Government personnel shall be excluded from computation of time.

5. A motor carrier entitled to a gate pass scheduling service for a later service period, but unwilling to wait for that service, may elect, not more than 30 minutes after issuance of said gate pass, to receive a preference slip (Attachment C) [1] entitled said motor carrier to service on the next business day as specified thereon. However, free time will not be extended if cargo is on last day of free time, nor will collection of demurrage charges be suspended if cargo is on demurrage.

6. Motor carriers arriving at a marine terminal facility after the capacity of said facility has been reached may be turned away, but shall be given preference for service on the next business day according to the order in which they arrived and were turned away. Motor carriers turned away under these circumstances shall be issued a preference slip (Attachment C), sequentially numbered, which shall assure preference for service on the next business day and, where cargo is on the last day of free time, create a 1-day extension of free time, or suspend collection of demurrage charges for 1 day as to cargo already on demurrage. If a gate pass is not issued and service provided as specified on said preference slip, for purposes of this rule, time shall accrue as of the time specified thereon. The preference slip shall be attached to the gate pass when said gate pass is issued.

7. If, at the commencement of its scheduled service period, a motor carrier is not available to receive cargo which is on the last day of free time, and because of the unavailability of said motor carrier, the terminal operator is unable to provide service on that day, there shall be no extension of free time.

8. If all vehicles scheduled for a service period are discharged prior to the end of that period, the motor carrier available and holding the next sequenced gate pass shall be served.

9. It shall be the responsibility of the motor carrier to determine from the terminal operator whether cargo to be delivered to said motor carrier is on the pier, at its place of rest, and segregated by bill of lading.

[1] Filed as part of the original document.

E. *Combination nonappointment/appointment system.* 1. An express line or nonappointment line may be established in conjunction with an appointment system in such a manner as the terminal operator determines best suits the needs of the particular facility.

2. All rules applicable to nonappointment facilities (Part D) shall be applicable to the nonappointment portion of a combination nonappointment/appointment terminal operation.

3. If a motor carrier attempts to make an appointment at a facility operating a combination system, and no appointment is available, and then said motor carrier seeks service as a nonappointment vehicle, said motor carrier shall be treated as a nonappointment vehicle for purposes of extension of free time.

F. *Penalties.* 1. A terminal operator who refuses to serve a motor carrier after rejecting, for lack of full and complete documentation, a delivery order or dock receipt which does contain the information required by this rule, shall be subject to a penalty of $15.

2. If a motor carrier fails to meet a scheduled appointment at a marine terminal facility, said motor carrier shall be subject to a penalty of $15.

3. If, pursuant to section B (5) or (6) of this rule, a terminal operator completes or corrects deficient documents presented by a motor carrier, a charge of $15 shall be assessed against said motor carrier.

4. If, contrary to section C(2) of this rule, a freight release covering subject cargo has not been authorized prior to a scheduled appointment, the motor carrier that requested said appointment shall be assessed a penalty of $15.

5. If, pursuant to section A(11) or D (9) of this rule, a terminal operator notifies a motor carrier that cargo is on the pier, at its place of rest, and segregated by bill of lading, and cargo is not on the pier, at its place of rest, and segregated by bill of lading when the motor carrier attempts to obtain said cargo, the terminal operator shall be subject to a penalty of $15.

6. Time allowances;

(a) *Containers handled as a single unit.* If service is not completed within the following times, penalty charges will accrue against the terminal operator at a rate of $4 per 15 minutes, or any fraction thereof, in excess of these times.

	Minutes
Appointment	75
Nonappointment	120

(b) *Noncontainerized cargo.* When vehicles are loaded by the terminal operator, or unloaded by the terminal operator at the request of the motor carrier, within the time periods set forth below there will be no penalty. If a vehicle is not loaded or unloaded within the following time periods, penalty charges will accrue against the terminal operator at a rate of $4 per 15 minutes, or any fraction thereof, in excess of these times.

i. Nonappointment vehicles:

	Minutes
0 to 5,000 pounds	210
5,001 to 10,000 pounds	240
10,001 to 15,000 pounds	270
15,001 to 30,000 pounds	285
Over 30,000 pounds	300

ii. Appointment vehicles:

2,000 pounds or less	90
2,001 to 5,000 pounds	120
5,001 to 10,000 pounds	150
10,001 to 15,000 pounds	180
15,001 to 20,000 pounds	210
20,001 to 25,00 pounds	240
Over 25,000 pounds	270

7. When freight is unloaded by the driver or other personnel of the motor carrier and unloading is not completed within the times prescribed by section F(6) of this rule, as computed from the time that the vehicle is spotted at a place convenient for unloading, the terminal operator shall be entitled to a penalty payment of $4 for each 15 minute period or any fraction thereof in excess of the specified time, unless the delay is demonstrated by the motor carrier to have been occasioned by the action or inaction of the terminal operator.

8. A motor carrier admitted to a marine terminal facility for loading or unloading—or holding an appointment for loading or unloading—shall be completely loaded or unloaded prior to the close of that business day. If the motor carrier is not completely loaded or unloaded when the terminal closes on that business day, time for purposes of this rule shall accrue only while the terminal is conducting operations. In addition:

a. Motor carriers holding appointments shall be entitled to a penalty payment of $65 from the terminal operator whether the shutout of the vehicle was due to refusal of management to authorize overtime, or labor's refusal to work overtime.

b. Nonappointment vehicles shall be entitled to a penalty payment of $65 from the terminal operator if the shutout of the vehicle was due to refusal of management to authorize overtime. If the shutout results from labor's refusal to work overtime, the terminal operator shall not be subject to penalty.

c. Management shall be presumed to have refused to authorize overtime, unless the terminal operator establishes otherwise.

G. *Submission of claims for penalties.*

1. All communication required by section G of this rule shall be via certified mail; return receipt requested.

2. Any person claiming penalty payments under this rule shall file a written claim with the terminal operator or motor carrier against whom said claim is made in accordance with the following procedures:

a. Claims for penalty payments for vehicle delay caused by a terminal operator shall set forth:

i. The name of the terminal operator against whom the claim is made.

ii. Whether service was on appointment or nonappointment basis.

iii. The location of the marine terminal or other area where the claim arose.

iv. Truck identification and license number.

v. Weight of shipment.

vi. (a) Date and time of issuance of gate pass or other arrival document by the terminal operator; (b) validation time for admission to facility or time of appointment; (c) date and time of Customs' time stamp.

vii. Time of commencement of loading or unloading.

viii. Time of completion of loading or unloading.

ix. Time that vehicle departed marine facility or other designated area.

x. Amount of penalty claimed.

xi. Whether cargo was transported in a container handled as a single unit.

xii. A copy of the duplicate gate pass issued pursuant to section B(1)(a) of this rule, and/or any other arrival document issued to the motor carrier.

b. Claims for penalty payments against terminal operators for improper rejection of documents shall set forth:

i. The name of the terminal operator against whom claim is made.

ii. Location of the marine terminal or designated facility.

iii. Truck identification and license number.

iv. Date and time of issuance of: (a) Gate pass; (b) tender of documents; (c) rejection of documents.

v. A copy of the written explanation issued by the terminal operator and a copy of the document involved.

vi. Brief explanation of impropriety of rejection.

vii. Amount of penalty claimed.

c. Claims for penalty payments filed by terminal operators for delay caused by motor carriers shall set forth:

i. The name of the motor carrier against whom the claim is made.

ii. Whether the motor carrier was served on an appointment or nonappointment basis.

iii. The location of the marine terminal or other designated area where the claim arose.

iv. Truck identification and license number.

v. Weight of the shipment.

vi. (a) Date and time of issuance of the gate pass and any other arrival document issued; (b) validation time for admission to pier facility; (c) date and time of Customs' stamp; (d) date and time that vehicle was spotted at a place convenient for unloading.

vii. Time of commencement of unloading.

viii. Time of completion of unloading.

ix. Time vehicle departed facility.

x. Amount of penalty claimed.

d. Claims for penalty payments filed by a terminal operator for a missed appointment by the motor carrier shall set forth:

i. The name of the motor carrier against whom claim is made.

ii. The name of the motor carrier representative who booked the appointment.

(a) Time of request.

(b) Appointment number.

iii. The name of the terminal operator representative who booked the appointment.

iv. The date and time of the missed appointment.

v. The amount of penalty claimed.

vi. A copy of the applicable portion of the appointment log maintained by the terminal operator.

e. Claims against motor carriers made pursuant to section F(3) of this rule shall set forth:

1. The name of the motor carrier against whom claim is made; motor carrier representative who requested the correction or completion of documents;

2. Location of marine terminal at which claim arose;

3. Truck identification and license number;

4. Date and time of (a) issuance of gate pass and/or other arrival documents; (b) tender of documents; and (c) acceptance of documents after completion or correction;

5. Amount of penalty claimed.

f. Claims against terminal operators made pursuant to section F(5) of this rule shall state, in addition to the requirements of section G(2)(g), the name of the motor carrier representative who requested information concerning the availability of cargo, and the name of the terminal operator representative who provided the erroneous information.

g. All other claims made pursuant to this rule shall be submitted to the party against whom said claim is made and shall state:

(1) Date on which claim arose;

(2) Terminal at which claim arose;

(3) Section of this rule pursuant to which claim is made;

(4) Circumstances under which claim arose;

(5) Amount of penalty claimed.

3. (a) Claims shall be filed within 15 calendar days from the date on which the claim arose or said claim shall be barred. The party against whom claim is made shall within 15 calendar days from receipt of said claim make payment thereon or reject. In rejecting a claim, the terminal operator or motor carrier shall set forth the reason or reasons for said rejection. Claims rejected because they do not contain the information required by this rule may be resubmitted no later than 15 days from receipt of rejection.

(b) Rejected claims may be submitted for review, within 15 days of receipt of rejection, to the Adjudicator who will affirm or reverse the rejection of claims within 30 days of receipt of the request for review. All decisions of said Adjudicator shall be final and binding.

4. (a) If the party identified as the terminal operator at a marine terminal facility under section A(5) of this rule rejects a claim pursuant to section A(9), the original claim and a statement of the reason(s) for rejection shall be forwarded within 7 days to the party alleged by the terminal operator to be liable for the claim, copy to the claimant.

(b) The steamship company shall pay or reject the claim within 15 calendar days from receipt thereof.

(c) If the claim is rejected by the steamship company, the claimant may submit both rejections to the Adjudicator, who shall review the rejection of the claim by both parties and determine liability as between the two.

[FR Doc.72-14212 Filed 8-22-72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 73, 76]

[Docket No. 19513]

SPONSORSHIP IDENTIFICATION RULES

Order Extending Time for Filing Reply Comments

In the matter of amendment of the Commission's sponsorship identification rules (§§ 73.119, 73.289, 73.654, 73.789, and 76.221).

1. The notice of proposed rule making in the above-entitled proceeding was adopted May 17, 1972, and published in the FEDERAL REGISTER on May 25, 1972, 37 F.R. 10583. The date for filing comments has expired. The date for filing reply comments is presently August 16, 1972.

2. On August 11, 1972, Friends of the Earth (FOE) filed a request for an extension of time to and including August 23, 1972, for the filing of reply comments. FOE states that they are laboring under an extraordinarily heavy workload precipitated by unforeseen circumstances and therefore require the additional time in which to file reply comments.

3. We are of the view that the requested extension of time is warranted and would serve the public interest: *Accordingly, it is ordered*, That the time for filing reply comments in the above docket is extended to and including August 23, 1972.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: August 15, 1972.

Released: August 17, 1972.

[SEAL] HAROLD L. KASSENS,
Acting Chief, Broadcast Bureau.

[FR Doc.72-14246 Filed 8-22-72;8:49 am]

[47 CFR Parts 73, 76]

[Docket No. 19533]

FM BROADCAST STATIONS

Table of Assignments, La Crosse, Wis.; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202 (b), table of assignments, FM broadcast stations (La Crosse, Wis.), Docket No. 19533, RM-1845.

1. The notice of proposed rule making in the above-entitled proceeding was adopted on June 28, 1972, and published in the FEDERAL REGISTER on July 12, 1972 (37 F.R. 13642). The dates specified for the filing of comments and reply comments are August 14 and August 24, 1972, respectively.

2. On August 10, 1972, La Crosse Radio, Inc. (La Crosse), licensee of Class IV standard broadcast station WLCX, La Crosse, Wis., filed a petition for an extension of time to file comments to and including August 28, 1972. La Crosse states the additional time is necessary in view of summer vacation schedules and other prior commitments of counsel.

3. We are of the view that the requested extension of time is warranted and would serve the public interest: *Accordingly, it is ordered*, That the time for filing comments in the above docketed proceeding is extended to and including August 28, 1972, for the filing of comments and to and including September 7, for the filing of reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 303 (r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: August 15, 1972.

Released: August 17, 1972.

[SEAL] HAROLD L. KASSENS,
Acting Chief, Broadcast Bureau.

[FR Doc.72-14247 Filed 8-22-72;8:49 am]

[47 CFR Part 73]

[Docket No. 19535]

FM BROADCAST STATIONS

Table of Assignments, Certain Cities in Arkansas, Colorado, and Indiana; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, table of assignments, FM broadcast stations (Salem, Ark.; Breckenridge, Colo.; and Berne, Ind.); Docket No. 19535; RM-1922, RM-1938, RM-1961.

1. The notice of proposed rule making in the above-entitled proceeding was adopted June 28, 1972, and published in the FEDERAL REGISTER on July 12, 1972 (37 F.R. 13643). The dates specified for the filing of comments and reply comments are August 14 and August 24, 1972, respectively.

2. On August 14, 1972, Robert Walton (Walton) filed a petition for extension of time to file comments. Walton states that he desires to file comments in this proceeding because if the Commission were to allocate an FM channel to St. Marys, Ohio, he would like to establish a station there.

3. We are of the view that an extension of time is warranted and would serve the public interest: *Accordingly, it is ordered*, That the time for filing comments in the above docketed proceeding (RM-1961 only), is extended to and including August 21, 1972 and to and including September 1, 1972 for the filing of reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 303 (r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: August 15, 1972.

Released: August 17, 1972.

[SEAL] HAROLD L. KASSENS,
Acting Chief, Broadcast Bureau.

[FR Doc.72-14248 Filed 8-22-72;8:49 am]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Cost of Living Council Ruling 1972–104]

EXEMPTION OF SOLE PROPRIETOR UNDER MASTER CONTRACT

Cost of Living Council Ruling

Facts. A is a barber who operates his own shop as a sole proprietor without employees. He is a member of a barbers' union which represents employees and owners of barber shops, and has signed, as an owner, the union contract which provides for minimum wages and prices. The contract covers a countywide area including more than 60 barbers.

Issue. Is A's sole proprietorship exempt from the regulations pursuant to the small business exemption contained in 6 CFR 101.51?

Ruling. A's operations are exempt from the economic stabilization program.

The regulations provide that the price and pay adjustments of any firm with an average of 60 or fewer employees are exempt from the coverage of the economic stabilization regulations, subject to certain exceptions; economic stabilization regulations § 101.51, 37 F.R. 8940 (1972).

Subparagraph (a)(2)(iv) of § 101.51 excepts firms whose pay adjustments immediately preceding the effective date of that section (May 2, 1972), applicable to or affecting 50 percent or more of its employees, were set by a master employment or other employment contract which was negotiated on a joint or association basis or on an industry, area, group, or other similar basis, and which covered more than 60 employees.

Since, on these facts, A is self-employed and has no other barbers working for him, and since he is a party to the master contract as an owner, and not as employee, he has no "employees" as that term is used in § 101.51. Therefore, A's sole proprietorship has less than 60 employees, and is not excepted by subparagraph (a)(2)(iv) from the exemption of § 101.51.

Moreover, since the exception provided by subparagraph (a)(2)(iv) is limited to firms whose pay adjustments "as of the effective date of this regulation," applying to 50 percent or more of its employees, were set by a master employment contract. A's price adjustments will remain exempt if A later hires one or more union barbers as employees. The wages of such employees willl not be exempt, however, if the master contract still covers more than 60 employees at the time they are hired by A; § 101.51 (a)(2)(v), 37 F.R. 8940 (1972).

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: August 17, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: August 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–14240 Filed 8–22–72;8:49 am]

[Cost of Living Council Ruling 1972–105]

SMALL BUSINESS EXEMPTION—LANDLORDS

Cost of Living Council Ruling

Facts. L owns a complex of apartments which he rents as residences. L has never employed more than 23 employees. The pay adjustments of the employees of L have never been set by a master employment or other employment contract of the type described in economic stabilization regulations 6 CFR 101.51(a)(2)(iv) (1972).

Issue. Whether the rent charged or the wages paid by L are exempt from the economic stabilization regulations?

Ruling. The rent charged by L is not exempt but the wages paid by L are exempt from the economic stabilization regulations.

Economic stabilization regulations 6 CFR 101.51(a)(1) (1972) provides in part that the price and pay adjustments (but not rent increases or adjustments) of any firm existing on or before December 31, 1971, with an average of 60 or fewer employees are exempt from the economic stabilization regulations. The parenthetical exception to the exemption in § 101.51 (a)(1) clearly indicates that rent increases and adjustment are not included in the coverage of the section. Thus, the rent charged by L for residences in the apartment complex is not exempt.

Section 101.2 defines firm as any person, corporation, association, estate, trust, partnership, joint venture, or sole proprietorship or any other entity however organized. Economic stabilization regulations 6 CFR 101.2 (1972). Thus, the word firm as used in §101.51(a)(1) would include L. Consequently, the exemption provided for price and pay adjustments applies to L except to the extent that it is expressly inapplicable (i.e., the parenthetical exception of rent increases and adjustments). Thus, assuming that the other requirements of § 101.51 are fulfilled, the pay adjustments of the employees of L are exempt.

This ruling has been approved by the General Counsel of the Cost of Living Council.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: August 18, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–14241 Filed 8–22–72;8:49 am]

[Price Commission Ruling 1972–222]

PROCESSING OF EXCEPTION APPLICATIONS FROM LANDLORDS CHARGING EXCESS RENTS

Price Commission Ruling

Facts. A lessor who charged or is currently charging rents in excess of those allowed by the Economic Stabilization Regulations has applied for an exception.

Issue. Will the Internal Revenue Service process and the Price Commission consider an application for an exception submitted by a lessor who has charged or is currently charging rent in violation of the Economic Stabilization Regulations?

Ruling. Price Commission Ruling 1972–154, 37 F.R. 8955 (1972), entitled "Processing of Exception Applications from Landlords Charging Excess Rents," states that the Internal Revenue Service and the Price Commission will not consider an application for an exception which is submitted by a lessor who has charged or is currently charging rent in violation of Economic Stabilization Regulations unless the lessor rolls back the illegal increase and refunds any excess rents collected thereunder.

The Price Commission, after reevaluating the above-mentioned ruling, has altered its policy on the subject.

Accordingly, Price Commission Ruling 1972–154 is hereby revoked.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: August 17, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: August 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–14239 Filed 8–22–72;8:49 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[FES 72-26]

PROPOSED CONSTRUCTION AND OPERATION, BY STATE OF NEVADA, OF SALMONID FISH HATCHERY WITHIN LAKE MEAD NATIONAL RECREATION AREA, NEVADA

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for the proposed construction and operation, by the State of Nevada, of a Salmonid fish hatchery within Lake Mead National Recreation Area, Nev.

The environmental statement considers the construction and operation, on approximately 20 acres of land, a Salmonid fish hatchery authorized and partially funded by the Nevada State Legislature of 1971. The site of the proposed construction is within Lake Mead National Recreation Area, and located in Clark County, Nev.

Copies are available from or for inspection at the following locations: Office of the Director, Western Region, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, CA 94102; and Office of the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, NV 89005.

Dated: August 16, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-14207 Filed 8-22-72;8:47 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

TENNESSEE

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91-606), it has been determined that in the following counties in the State of Tennessee natural disasters have caused a general need for agricultural credit:

COUNTIES	
Benton.	Gibson.
Carroll.	Haywood.
Chester.	Henderson.
Crockett.	Madison.
Dyer.	McNairy.

Emergency loans will not be made in the above-named counties under this designation pursuant to applications received after June 30, 1973, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for emergency loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

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

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.72-14286 Filed 4-22-72;8:52 am]

Soil Conservation Service

SIMON RUN WATERSHED PROJECT, IOWA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the U.S. Department of Agriculture, Soil Conservation Service has prepared a draft environmental statement for the Simon Run Watershed Project, Pottawattamie County, Iowa, USDA-SCS-ES-WS-(ADM)-73-12(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment supplemented by 11 grade stabilization structures, 5 of which are designed with floodwater storage capacity.

The draft environmental statement was transmitted to CEQ on August 8, 1972.

Copies are available during regular working hours at the following locations:

USDA, Soil Conservation Service, Washington Office, South Agriculture Building, Room 5227, 12th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Soil Conservation Service, 823 Federal Building, 210 Walnut Street, Des Moines, IA 50309.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of statement above when ordering. The estimated cost is $3.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are invited from anyone having knowledge of or special expertise with respect to environmental impacts.

Comments concerning the proposed action and requests for further information should be addressed to Mr. W. T. Moon, State Conservationist, Soil Conservation Service, 823 Federal Building, 210 Walnut Street, Des Moines, IA 50309.

Comments must be received within 60 days of the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environmental statement.

Dated: August 16, 1972.

KENNETH E. GRANT,
Administrator, Soil Conservation Service.

[FR Doc.72-14285 Filed 8-22-72;8:52 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23(72)-8]

LORENZ EDV-UNTERNEHMENSBERATUNG ET AL.

Order Extending Temporary Denial of Export Privileges

In the matter of Lorenz EDV-Unternehmensberatung and Peter Lorenz, respondents; Lorenz Datenservice GmbH, Lorenze ADV-Systeme-Zubehor-Raumausstattung GmbH, IRI Institut fur Rationalisierung und Informatik GmbH, Informa Computerwerbung und Demoskopie AfD Akademie fur Datenverarbeitung e.V., related parties; all of Stuttgart, Frankfurt, Munich, Dusseldorf—Federal Republic of Germany, and Vienna, Austria; File No. 23(72)-8.

An order temporarily denying export privileges for a period of 60 days was issued against the above respondents and related parties on June 23, 1972 (37 F.R. 12980-12981). Said order was issued in connection with an investigation instituted by the Compliance Division, Office of Export Control, Bureau of International Commerce. On the evidence presented there was reasonable basis to believe that early in 1971 the Lorenz firm reexported from West Germany to the U.S.S.R. a computer system valued at approximately $1,600,000, which was subject to U.S. export controls, although the firm knew this was a violation of U.S. export control regulations. On the evidence presented there is also reasonable basis to believe that respondents have ordered a computer system which is subject to U.S. export controls and which is more sophisticated than the system referred to above; that this system is now in the Federal Republic of Germany and its intended disposition requires further investigation.

The Director of the Compliance Division has applied under § 388.11 of the export control regulations for an extension of the temporary denial order for an additional 45 days, during which time it expects to complete its investigation.

The application for extension of the temporary denial order has been considered by the Hearing Commissioner and he has reported his recommendation to me that the present temporary denial order be extended for an additional 45 days. He has found that such extension is reasonably necessary for the protection of the public interest. I confirm this finding.

Accordingly, it is hereby ordered:

I. The prohibitions and restrictions of the temporary denial order issued in this

matter on June 23, 1972 (37 F.R. 12980–12981), are hereby continued in full force and effect.

II. The respondents, their successors, assigns, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the export control regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith. Such related parties include, Lorenz Datenservice GmbH; Lorenz EDV - Systems - Zubehor-Raumausstattung GmbH; IRI Institut fur Rationalisierung und Informatik GmbH; Informa Computerwerbung und Demoskopie; AfD Akademie fur Datenverarbeitung e.V., with offices in the cities above mentioned.

IV. This order continues in full force and effect the temporary denial order which was entered on June 23, 1972, and shall remain in effect for a period of 45 days from the expiration of said temporary denial order, unless it is hereafter amended, modified, or vacated in accordance with the provisions of the U.S. export control regulations.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with respondents or any related party or whereby the respondents or such related party may obtain any benefit therefrom, or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any said respondents; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served upon the respondents and the related parties named herein.

VII. In accordance with the provisions of § 388.11(c) of the export control regulations, the respondents or any related party named herein, may move at any time to vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Hearing Commissioner, and may request an oral hearing thereon which, if requested, shall be held before the Hearing Commissioner in Washington, D.C., at the earliest convenient date.

Dated: August 18, 1972.

WILSON E. SWEENEY,
Acting Director,
Office of Export Control.

[FR Doc.72-14281 Filed 8-22-72;8:52 am]

Office of Import Programs

ATF FORENSIC LABORATORY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72–00584–01–10520. Applicant: ATF Forensic Laboratory, Department of Treasury, IRS-Alcohol, Tobacco, and Firearms Division, 111 Constitution Avenue, Washington, DC 20224. Article: Vapor Trace Analyzer, Model 103A. Manufacturer: Hydronautics-Israel, Ltd., Israel. Intended use of article: The article is intended to be used to detect different explosive vapors under varying conditions and environments to determine the practicality of using portable detection equipment to detect explosive vapors. Departmental personnel will be trained in the potential of this type of detector in identifying explosives by their vapor traces.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a portable instrument for the detection of explosive vapors in trace quantities. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 25, 1972, that the characteristics of the article described above are pertinent to the applicant's intended explosive studies. NBS further advises that it knows of no comparable domestically manufactured instrument satisfying the pertinent specifications.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-14232 Filed 8-22-72;8:48 am]

COLUMBIA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No.: 72–00074–01–42900. Applicant: Columbia University, Department of Chemistry, Broadway at 116th Street, New York, NY 10027. Article: Superconducting magnet. Manufacturer: Oxford Instrument Co., United Kingdom. Intended use of article: The article is intended to be used in experiments designed to study the shift of microwave absorption frequencies, and its relation to molecular magnetism. Comments: No comments have been received with respect to this application. Decision: Application denied.

An instrument of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used is being manufactured in the United States. Reasons: The application is a resubmission of Docket Nos. 71–00063–42900 and 70–00284–01–42900 which were denied without prejudice to resubmission on April 26, 1971, and April 27, 1970, respectively. As to Docket No. 71–00063–01–42900 the National Bureau of Standards (NBS) advised in its memorandum dated November 19, 1970, that:

(1) The foreign article, while not a standard size and accordingly not a produced-for-stock article, was "nonunique";

(2) A large number of domestic superconducting magnets are custom made by a number of domestic manufacturers; and

(3) One or more domestic manufacturers "Can and would supply the applicant's desired magnet providing one does not require cost equivalent limitations as well as scientific equivalency."

In response to question 8, the applicant listed two domestic manufacturers neither of which has "Standard magnets which match the specifications given in 5(c)." It is noted, however, that there is virtually no such thing as a "standard" superconducting magnet since nearly all are custom made for each user's intended application. Moreover, domestic magnet manufacturers are geared to furnish custom-made designs.

The applicant stated in response to question 9 that two "domestic manufacturers were requested to bid on an instrument in the same technologically competitive class as the article with reference to stipulated cost limitations." In justifying nonequivalency an applicant is required to compare the alleged pertinent specifications of the foreign article with similar specifications of the most closely comparable instrument being manufactured in the United States. However, cost differences between the domestic and foreign instruments are specifically precluded from Commerce Department consideration in determining both "pertinent specifications" and "most closely comparable domestic instrument" by section 701.2(n) and section 701.2(m) respectively. Finally, in its May 23, 1972, memorandum relating to the captioned application NBS advised that "we find no information in this resubmission, concerning pertinent specifications of the foreign article which could not have been met by a domestic custom manufactured magnet."

Accordingly, we find that an instrument of equivalent scientific value to the article for such purposes as the article is intended to be used is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-14233 Filed 8-22-72;8:48 am]

DREXEL UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00219-80-84300. Applicant: Drexel University, 32d and Chestnut Streets, Philadelphia, Pa. 19104. Article: Wind tunnel. Manufacturer: Armfield Engineering Ltd., United Kingdom. Intended use of article: The article is intended to be used in the course of E105 chemical engineering thermodynamics for experimental demonstration of the following compressible-flow phenomena:

1. Relation between frictional losses and Reynold's number.
2. Effect of sudden enlargement on total mechanical energy gas stream.
3. Measurement of gas flow rates by means of orifice plates.
4. "Choked" flow in convergent-divergent nozzle.
5. Flow demonstrations of convergent nozzles.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is specifically designed to facilitate the safe teaching of aerodynamics with a minimum of student supervision. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 21, 1972, that apparatus providing instructional capability similar to the foreign article is pertinent to the applicant's intended use. NBS further advises that it knows of no comparable domestically manufactured instrument scientifically equivalent to the foreign article for the intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-14234 Filed 8-22-72;8:48 am]

INDIANA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00301-98-78000. Applicant: Indiana University, Department of Physics, Bloomington, Ind. 47402. Article: Fourier spectrophotometer, FS-720. Manufacturer: Beckman-RIIC, Ltd., United Kingdom. Intended use of article: The article will be used in analyzing the beam of a far-infrared gas laser constructed by the applicant in order to determine which of the many possible lasing frequencies exist for any given configuration. The article will also be used in determining the absorption strengths, and line width of electronic transitions in order to determine their usefulness for the generation of phonons.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a resolution of 0.1 reciprocal centimeters ($cm.^{-1}$). The most closely comparable domestic instrument is the Block Model FTS-16 manufactured by Digilab, Inc. (Digilab). The Block Model FTS-16 provides a resolution of 0.4 $cm.^{-1}$. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 27, 1972, that the superior resolution of the foreign article is pertinent to the applicant's research studies. We, therefore, find that Digilab's Block Model FTS-16 is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-14235 Filed 8-22-72;8:48 am]

UNIVERSITY OF DELAWARE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00586-01-86300. Applicant: University of Delaware, Newark, Del. 19711. Article: Viscoelastometer, Model DDV II. Manufacturer: Toyo Measuring Instruments Co., Ltd., Japan. Intended use of article: The article is intended to be used in the investigation of mechanical spectra-loss modulus as a function of temperature and exciting frequency of fibers of various polymeric materials.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a frequency range of 3.5 to 110 hertz (Hz). The most closely comparable domestic instrument is the mechanical spectrometer manufactured by Rheometrics, Inc. (Rheometrics). The Rheometrics mechanical spectrometer has a sharp drop in dynamic response at a frequency of 20 Hz. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 25, 1972, that the superior frequency range of the foreign article is pertinent to the applicant's research studies. We, therefore, find that the Rheometrics mechanical spectrometer is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-14236 Filed 8-22-72;8:48 am]

UNIVERSITY OF MICHIGAN MEDICAL SCHOOL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00425-33-02300. Applicant: The University of Michigan Medical School, Department of Pharmacology, M6322 Medical Science Building I, Receiving Dock No. 2, Ann Arbor, Mich. 48104. Article: Yanagita restraining harnesses. Manufacturer: O'Hara & Co., Ltd., Japan. Intended use of article: The article is intended to be used to restrain and protect in-dwelling, intravenous catheters in rhesus monkeys which administer drugs of abuse through the catheters. The experiments that will be conducted include studies of the self-administration of narcotics, barbiturates, and central nervous system stimulants by the monkey.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article allows free movement of the animal being restrained while providing protection of the catheter through which drugs are to be administered. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated July 14, 1972, that the characteristics of the article described above are pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-14237 Filed 8-22-72;8:49 am]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00561-98-34040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Carcinotron, Model CO.20B. Manufacturer: Thomson-CSF Electronic Tubes, France. Intended use of article: The article is intended to be used in the development and operation of a polarized proton target to be used to investigate the structure of the proton in a series of deep inelastic polarized electron-polarized proton scattering experiments.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a microwave tube which provides 0.2 to 3 watts output power over a frequency range of 128 to 136 gigahertz. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 25, 1972, that the characteristics of the article described above are pertinent to the applicant's intended study. NBS further advises that it knows of no domestically manufactured tube scientifically equivalent to the foreign article for its intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-14238 Filed 8-22-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE

Notice of Public Meeting

The Secretary's Commission on Medical Malpractice, established to advise the Secretary on the entire range of problems surrounding the medical malpractice phenomenon, will meet Friday and Saturday, August 25-26, 1972, from 9 a.m. to 5 p.m., each day, in a public meeting room of the Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, DC. The Commission will review its research program and will discuss a variety of issues for possible inclusion in its final report. The meeting will be open to the public.

Dated: August 15, 1972.

ELI P. BERNZWEIG,
Executive Director.

[FR Doc.72-14256 Filed 8-22-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. RST-1, Waiver Petitions 1, 2, and 3, Notice 1]

TRACK SAFETY STANDARDS

Notice of Hearing

AUGUST 18, 1972.

The Laona and Northern Railway Co., the Bellefonte Central Railroad Co. and the Chattahoochee Valley Railway Co. have petitioned the Federal Railroad Administration (FRA) for waivers of compliance with certain requirements of the FRA Track Safety Standards (49 CFR Part 213) published in the FEDERAL REGISTER on October 20, 1971 (36 F.R. 20336).

The Laona and Northern Railway Co. (Waiver Petition No. 1) seeks waiver of compliance with requirements of §§ 213.33 (*Drainage*), 213.123 (*Tie plates*), and 213.233 (*Track inspections*).

The Bellefonte Central Railroad Co. (Waiver Petition No. 2) seeks waiver of compliance with §§ 213.7 (*Designation of qualified persons to supervise certain renewals and inspect track*) and 213.233 (*Track inspections*).

The Chattahoochee Valley Railway Co. (Waiver Petition No. 3) seeks a general waiver of compliance with all of the FRA Track Safety Standards (49 CFR Part 213).

The Railroad Safety Board has voted that a public hearing be held before entering its decision in these proceedings.

Accordingly, a public hearing is hereby set for 10 a.m. on September 25, 1972, Rooms 5332 and 5334, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The hearing will be an informal one, and will be conducted in accordance with Rule 31 of the FRA rule making procedures (49 CFR 211.31), by a representative designated by the Board. The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representative of the Board will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

Interested persons may also participate in these proceedings by submitting written data, views, or comments. Communications should identify the docket, waiver and notice numbers, and should be submitted to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590. Communications received by September 20, 1972, will be considered before the Board acts on these Petitions. Comments received after that date will be considered so far as practicable.

These Petitions and all comments received will be available for examination by interested persons. The dockets may be examined during regular business hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

This notice is issued under the authority of the Federal Railroad Safety Act of 1970 (84 Stat. 971 et. seq.; 45 U.S.C. 421 et. seq.) and § 1.49(n) of the regulation of the Office of the Secretary of Transportation (49 CFR § 1.49(n)).

JOHN E. ROURKE,
Chairman, Railroad Safety Board.

[FR Doc.72-14280 Filed 8-22-72;8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23486; Order 72-8-43]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Deferring Action Regarding Agency Matters

Issued under delegated authority August 9, 1972.

An agreement has been filed with the Board pursuant to section 412 of the Federal Aviation Act of 1958, as amended (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in a resolution recommended for adoption by members of the International Air Transport Association attending the fifth meeting of the Passenger Agency Committee at Montreal, Quebec, Canada, April 10–15, 1972.[1]

The resolution (810z) is entitled, "Notice of Termination of section K Agents" [2] for effectiveness July 1, 1972, in each of the three Traffic Conferences of IATA. It provides that, as of May 31, 1974, the special rules applicable to the approval of non-IATA carriers as agents under section K of Resolution 810(a) will end. Any such carrier on the Agency List as of that date will be removed from the list. In the interim non-IATA carriers may apply for approval under the rules governing other applicants for agency approval as set forth in section B (U.S.A.) or section D (except U.S.A.) of Resolution 810(a).

In an explanatory statement submitted with the agreement, IATA states that agents approved under section K are now being considered more and more in terms compatible with those applicable to normal approved Passenger Sales Agents. It was also noted that the provisions of Resolution 851 (Interline Agreements with non-IATA carriers) permit the execution of interline agreements between IATA members and non-IATA carriers and that this would provide a section K agent with a reasonable alternative in the event of failure to qualify under the normal agency requirements of Resolution 810a.

No comments on the agreement have been received.

It would thus appear that the amendment consolidates the provisions for dealing with "section K" and passenger sales agents without prejudicing the rights of such agents for IATA qualification. In this connection we note that all such agents in the USA are steamship companies and that IATA apparently believes that any such agent which is unable to meet the normal requirements of the Agency Resolution (810a), could enter into an interline agreement with airlines which, according to IATA, would provide equivalent benefits. However, before approving the resolution we believe that the interested parties should be afforded opportunity to express their views on the proposed IATA action.

Therefore, acting pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, on a tentative basis it is not found that the agreement is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

1. Action on agreement CAB 23111 be and it hereby is deferred with a view toward eventual approval: *Provided,* That interested persons may file comments within 14 days [3] hereafter; and

2. This order shall be served upon the U.S. home offices of "section K" agents.

This order shall be published in the FEDERAL REGISTER.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 15 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-14276 Filed 8-22-72;8:53 am]

[1] The resolution was declared adopted by notice from IATA's New York Office received June 12, 1972.

[2] Section K of Resolution 810(a) as it applies to the U.S.A., provides an exemption from the normal rules governing applicants for agency approval which permits non-IATA airlines, steamship companies and railway companies providing scheduled passenger services to be approved by IATA (and thereafter to be appointed as agent of IATA members) without the necessity of filing a formal application or paying the regular fees associated with such applications.

[3] An original and 20 copies shall be filed with the Dockets Section.

[Docket No. 24678; Order 72-8-79]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Reduced Fares for Passenger Sales Agents

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of August 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated CAB agreement number.

The agreement would permit passenger sales agents who are presently eligible for reduced-fare transportation under existing IATA resolutions and who are also representatives of the Universal Federation of Travel Agents' Associations (UFTAA) to travel to joint IATA/UFTAA meetings on the flights of IATA members without charge being made against the agent's normal allocation of reduced-fare transportation.[1] The agreement provides that the applying agent must be certified by the Secretary General of UFTAA as attending a joint IATA/UFTAA meeting as an official representative of UFTAA. The fare level shall be equivalent to a discount not in excess of 75 percent of the applicable air fare for the class of service provided to and from the point where such meeting is being held.

In the past, the Board has granted requests of members of the Air Traffic Conference of America to transport agents domestically for discussions between the air carriers and the travel agency industry. More recently, the Board has permitted such travel subject to a requirement that the carriers file

[1] Presently, each passenger sales agency receives two tickets at a 75-percent reduction for each qualified employee per agency location per calendar year.

with the Board's Docket Section two copies of a list of names of persons receiving the transportation, together with the names and addresses of the travel agencies such persons represent, and the routing over which they traveled within 30 days after the travel has been completed.[2]

We cannot find at this time that approval of the instant IATA agreement would be inconsistent with the Board's past policy regarding similar dialogs between domestic carriers and agents. However, the IATA carriers' provisions relating to the grant of transportation are quite general, and we are thus reluctant to acquiesce in the carriers' desire for application of such provisions for an indefinite period of effectiveness. Accordingly, our approval will be limited through December 31, 1973, and conditioned so as to require reports from the U.S.-flag carrier members of IATA containing information as to each IATA/UFTAA meeting. This information is similar to that required of domestic carriers and will enable the Board to ascertain, at a later date, whether further approval is warranted.

The Board, acting pursuant to sections 102, 204(a), and 412 of the act, does not find that the following resolutions, which are incorporated in Agreement CAB 23108, are adverse to the public interest or in violation of the act, if subject to the condition hereinafter ordered:

IATA Resolutions

100(Mail 897)203h.	JT23(Mail 298)203h.
200(Mail 142)203h.	JT31(Mail 219)203h.
300(Mail 376)203h.	JT123(Mail 690)203h.
JT12(Mail 791)203h.	

Accordingly, it is ordered, That:

Agreement CAB 23108 be and hereby is approved through December 31, 1973, subject to the condition that the U.S.-carrier members of IATA shall, within 30 days after the completion of any joint IATA/UFTAA meeting contemplated by said resolution, file with the Board's Docket Section two copies of a report of such meeting containing the following information:

1. Dates and location of meeting;
2. Purpose of the meeting;
3. List of agents in attendance and the national association which they represent; and
4. Routings and carriers utilized by all U.S.-based agents in attendance, together with dates of travel, from actual origin to destination and return.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-14275 Filed 8-22-72;8:53 am]

[2] See Orders 70-12-79 of Dec. 14, 1970, and 72-1-20 of Jan. 7, 1972.

ENVIRONMENTAL PROTECTION AGENCY

LEPTOPHOS

Notice of Extension of Temporary Tolerances

The Velsicol Chemical Corp., 1725 K Street NW., Washington, DC 20006, was granted temporary tolerances (PP 0G0971) for the combined residues of the insecticide *O*-(4-bromo-2,5-dichlorophenyl) *O*-methyl phenylphosphonothioate, its oxygen analog *O*-(4-bromo-2,5-dichlorophenyl) *O*-methyl phenylphosphonate, and its phenol hydrolysis product 4-bromo-2,5-dichlorophenol in or on the raw agricultural commodities broccoli and cabbage at 5 parts per million; tomatoes at 1 part per million; cottonseed at 0.3 part per million; potatoes at 0.15 part per million; and corn grain, including field corn and sweet corn (kernels plus cob with husk removed) at 0.03 part per million on June 30, 1971 (notice was published in the FEDERAL REGISTER of July 9, 1971 (36 F.R. 12922)).

The firm has requested a 6-month extension to obtain additional experimental data and has amended the petition by (a) withdrawing the request for field corn, (b) increasing the tolerance levels for fresh corn including sweet corn (kernels plus cob with husks removed) from 0.03 to 0.05 part per million and for tomatoes from 1 to 2 parts per million, and (c) changing the expression of the residues to include the photolytic decomposition product *O*-(2,5-dichlorophenyl) *O*-methyl phenylphosphonothioate.

It is concluded that such extension will protect the public health. A condition under which the temporary tolerances are extended is that the insecticide be used in accordance with the temporary permit which is being issued concurrently by the Environmental Protection Agency and which provides for distribution under the Velsicol Chemical Corp. name.

As extended, these temporary tolerances expire December 31, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), 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 (35 F.R. 9038).

Dated: August 16, 1972.

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

[FR Doc.72-14263 Filed 8-22-72;8:51 am]

METHOMYL

Notice of Establishment of Temporary Tolerance; Correction

In F.R. Doc. 72-10956 appearing on page 14252 in the issue of Tuesday, July 18, 1972, "0.02" part per million" in the first paragraph is changed to "0.2 part per million."

Dated: August 16, 1972.

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

[FR Doc.72-14265 Filed 8-22-72;8:51 am]

ROHM AND HAAS CO.

Notice of Withdrawal of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105, has withdrawn its petition (FAP 2H5002), notice of which was published in the FEDERAL REGISTER of January 27, 1972 (37 F.R. 1260), proposing establishment of food additive tolerances (21 CFR Part 121) for residues of the herbicide 2,4-dichlorophenyl *p*-nitrophenyl ether in or on rice bran, hulls, polishings, and other rice milling fractions resulting from application to the growing rice.

Dated: August 16, 1972.

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

[FR Doc.72-14262 Filed 8-22-72;8:51 am]

VIABLE SPORES OF THE MICROORGANISM *BACILLUS THURINGIENSIS* BERLINER

Notice of Establishment of Temporary Exemption From Requirement of Tolerance for Microbial Pesticide

International Minerals & Chemical Corp., Libertyville, Ill. 60048, submitted a petition (PP 2G1243) requesting establishment of a temporary exemption from requirement of a tolerance for residues of the microbial insecticide *Bacillus thuringiensis* Berliner in or on the raw agricultural commodities brussels sprouts and soybeans.

It has been determined that the temporary exemption for residues of the microbial insecticide in or on brussels sprouts and soybeans is safe and will protect the public health. It is therefore established as requested on condition that the microbial insecticide be used in

accordance with the temporary permit being issued concurrently by the Environmental Protection Agency and which provides for distribution under the International Minerals and Chemical Corp. name.

This temporary exemption expires August 14, 1973.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), 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).

Dated: August 14, 1972.

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

[FR Doc.72-14264 Filed 8-22-72;8:51 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19566; 19567]

RADIO DINUBA CO. AND KORUS CORP.

Order Regarding Applications for Construction, Hearing

In re applications of Radio Dinuba Co., Dinuba, Calif., Docket No. 19566, File No. BPH-7567, requests: Channel 255; 8.8 kw. (H & V); 1,004 feet; and Korus Corp., Dinuba, Calif., Docket No. 19567, File No. BPH-7657, requests: Channel 255; 1.5 kw. (H & V); 2,043 feet; for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting under delegated authority, has under consideration the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Therefore, a comparative hearing must be held.

2. Korus Corp. proposes independent programing, while Radio Dinuba Co. proposes to duplicate the programing of its commonly owned AM station, KRDU, during 25 percent of its broadcast time. When duplicated programing is proposed, the showing permitted under the standard comparative issue is usually limited to evidence concerning the benefits to be derived from the proposed duplication. See Jones T. Sudbury, 8 FCC 2d 360, 10 RR 2d 114 (1967). In this case, however, since Korus Corp. proposes a predominantly bilingual (English and Spanish) program format, while Radio Dinuba Co. proposes mostly general market programing, a full comparison of the programing proposals is warranted. Ward L. Jones, FCC 67-82 1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965). Therefore, the entire programing proposals of the applicants will be considered under the standard comparative issue.

3. Since no determination has yet been reached on whether the antenna proposed by Radio Dinuba Co. would constitute a menace to air navigation, an issue regarding this matter is required.

4. Except as indicated by the issues set out below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Radio Dinuba Co. would constitute a menace to air navigation.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

6. *It is further ordered,* That the Federal Aviation Administration is made a party to the proceeding.

7. *It is further ordered,* That the applicants and party respondent herein, shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221 (c) of the rules.

8. *It is further ordered,* That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: August 16, 1972.

Released: August 17, 1972.

FEDERAL COMMUNICATIONS COMMISSION
[SEAL] HAROLD L. KASSENS,
Acting Chief, Broadcast Bureau.

[FR Doc.72-14249 Filed 8-22-72;8:50 am]

FEDERAL MARITIME COMMISSION

MATSON NAVIGATION CO. AND SEATTLE/CRESCENT CONTAINER CO.

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:

Mr. Peter P. Wilson, Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, CA 94105.

Agreement No. T-2677, between Matson Navigation Co. (Matson) and Seattle/Crescent Container Service (Crescent), provides that Crescent will perform stevedoring and terminal services for Matson subject to the Matson nonpreferential assignment agreement with the Port of Seattle as set forth in Port of Seattle Tariff No. 2-F, Section 9. The services will be performed at rates agreed upon by both Matson and Crescent. The agreement shall continue in effect indefinitely subject to 30 days prior notice of termination by either party.

Dated: August 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-14224 Filed 8-22-72;8:47 am]

PACIFIC WESTBOUND CONFERENCE

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:

D. D. Day, Jr., Chairman, Pacific Westbound Conference, 635 Sacramento Street, San Francisco, CA 94111.

Agreement No. 57–97 modifies Article 10, classification of discharge ports, of the appendix of the basic agreement by adding Tokyo, Japan, as a base port.

Dated: August 18, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-14225 Filed 8-22-72;8:48 am]

PORT OF SEATTLE AND AMERICAN MAIL LINE, LTD.

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:

Mr. Alvin L. Sklow, Director, Real Estate, Port of Seattle, Post Office Box 1209, Seattle, WA 98111.

Agreement No. T–2671, between the Port of Seattle (Port) and American Mail Line, Ltd. (AML), is a month-to-month lease of certain office space, storage, and transit shed area located at Pier 28, Seattle, Wash., to be used for offices, storage, and transit shed operation. As compensation, the Port is to receive $5,492.73 per month, in lieu of tariff charges.

Dated: August 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-14223 Filed 8-22-72;8:47 am]

FEDERAL POWER COMMISSION

[Docket No. RP73-1]

CITIES SERVICE GAS CO.

Notice of Proposed Changes in Rates and Charges; Correction

JULY 25, 1972.

In the notice of proposed changes in rates and charges, issued July 14, 1972, and published in the FEDERAL REGISTER on July 21, 1972 (37 F.R. 14640): In the first paragraph delete the word "jurisdictional".

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-14254 Filed 8-22-72;8:50 am]

[Docket No. CP72–159]

CITY OF FLORENCE, ALA., AND TENNESSEE GAS PIPELINE CO.

Order Providing for Hearing, Denying Motions To Dismiss Application, and Permitting Interventions

AUGUST 15, 1972.

On December 15, 1971, the city of Florence, Ala. (Florence) filed in Docket No. CP72–159 an application pursuant to section 7(a) of the Natural Gas Act requesting the Commission to direct Tennessee Gas Pipeline Co. (TGP) to establish physical connection of its transmission facilities with Florence's facilities and to sell and deliver 11,480 Mcf of natural gas per day to Florence to replace that which Florence presently purchases from Alabama-Tennessee Natural Gas Co (Alabama-Tennessee) or, in the alternative, to sell and deliver to Florence 9,460 Mcf of natural gas per day to replace a portion of the total gas volumes presently purchased from Alabama-Tennessee. Florence states that its cost of physical connection will be $630,000 and will be financed out of the issuance of 20 year revenue bonds.

In support of its proposal, Florence states that its proposed purchases from TGP, Alabama-Tennessee's supplier, will result in savings in cost of gas purchased which will be passed on to its consumers either in rate reductions or offsets to increases in costs that otherwise might require increases in rates. Florence further states that Central Gas Co. (Central), a wholly owned subsidiary of Alabama-Tennessee, purchases gas directly from TGP and, therefore, has a competitive advantage over Florence. Additionally, it alleges that the switchover to TGP as Florence's supplier will enable Florence to compete with Central in obtaining new loads in its service area due to cost savings realized by elimination of an unnecessary middleman.

Petitions to intervene in Docket No. CP72–159 were filed by the following:

Central Gas Company on July 17, 1972.[1]
Alabama-Tennessee Natural Gas Co. on January 17, 1972.

Tennessee filed an answer to the application and requested that it be denied. Also, Alabama-Tennessee filed a protest and motion to dismiss Florence's application.

The application and answers thereto set forth issues of facts and law that should be fully ventilated on an evidentiary record. Accordingly, we shall order a formal hearing to be convened to explore the public convenience and necessity issues involved in Florence's proposed physical connection to the gas system of TGP and shall deny TGP's and Alabama-Tennessee's motions at this time without prejudice to resubmitting the motions after hearing has been held.

The Commission finds:

(1) It is appropriate in the administration of the Natural Gas Act for the Commission to enter upon a hearing concerning Florence's application filed herein on December 15, 1971, and that the procedures hereinafter ordered be established for the hearing.

(2) It is desirable to allow the companies which have filed petitions to intervene to become interveners in this proceeding in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(3) For the reasons hereinbefore stated, the motions to dismiss and deny Florence's application filed by TGP and Alabama-Tennessee should be denied without prejudice.

The Commission orders:

(A) Each of the above-named petitioners is permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of said interveners shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders entered in this proceeding.

[1] Florence filed an answer in opposition to Central's petition to intervene.

(B) The motion filed by Tennessee Gas Pipeline Co. to deny Florence's application is hereby denied without prejudice to resubmitting said motion at a later date.

(C) The motion filed by Alabama-Tennessee Natural Gas Co. to dismiss Florence's application is hereby denied without prejudice to resubmitting said motion at a later date.

(D) The direct case of the city of Florence, Ala., and the respondent's case in opposition to this application shall be filed and served on all parties, the Presiding Examiner and the Commission's Staff on or before September 8, 1972.

(E) Pursuant to the authority of the Natural Gas Act, particularly sections 7, 15 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing September 18, 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 issues raised by the proposal of the city of Florence, Ala., for an order of the Commission directing TGP to establish physical connection of its transmission facilities with Florence's facilities and to sell and deliver natural gas to Florence.

(F) A Presiding Examiner to be designated by the Chief Examiner for that purpose [see Delegation of Authority, 18 CFR 315(d)], shall preside at the hearing in the Docket No. CP72–159 proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72–14219 Filed 8–22–72;8:47 am]

[Docket No. CI73–45]

CONTINENTAL OIL CO.

Notice of Application; Correction

AUGUST 9, 1972.

In the notice of application, issued July 25, 1972, and published in the FEDERAL REGISTER on July 29, 1972 (37 F.R. 15342): In the first paragraph change "day" to "month".

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–14253 Filed 8–22–72;8:50 am]

[Docket No. CP73–50]

DELHI GAS PIPELINE CORP.

Notice of Application

AUGUST 21, 1972.

Take notice that on August 15, 1972, Delhi Gas Pipeline Corp. (Applicant), Fidelity Union Tower Building, Dallas, Tex. 75201, filed in Docket No. CP73–50 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Co. (Transwestern) at an existing point of interconnection in Eddy County, N. Mex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas to Transwestern on August 10, 1972, within the contemplation of § 2.68 of the Commission's general policy and interpretations (18 CFR 2.68) and proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell Transwestern such quantities of gas as it shall have available at the point of delivery from time to time, not to exceed 20,000 Mcf of gas per day, at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 1, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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.72–14385 Filed 8–22–72;8:53 am]

[Docket No. CP70–137]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

AUGUST 16, 1972.

Take notice that on August 1, 1972, El Paso Natural Gas Co. (petitioner), Post Office Box 1492, El Pasco, TX 79978, filed in Docket No. CP70–137 a petition to amend the order of the Commission heretofore issued in said docket, pursuant to section 7(c) of the Natural Gas Act, on May 12, 1970 (43 FPC 723), as amended, so as to authorize a change in contract demand service for the town of Buckley, Wash., all as fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued in the subject docket, the Commission authorized petitioner, inter alia, to transport, sell, and deliver to Northwest Division System distributor customers additional supplies of natural gas imported by the petitioner from its Canadian supplier at the Sumas, Wash., import point and to construct and operate facilities therefor. Petitioner states that effective November 1, 1971, the contract demand quantity for Buckley was increased from 6,150 therms to 23,545 therms in anticipation of service to a new customer by Buckley, the Rainier School for the Mentally Retarded. Due to contractual difficulties between the school and the State of Washington, the school did not convert from coal to gas usage as expected. On May 30, 1972, petitioner tendered a new service agreement dated March 1, 1972, between petitioner and Buckley, which agreement provides for a reduction in the contract demand for Buckley from 23,545 therms to 7,500 therms effective as of March 1, 1972, and for an increase in such contract demand to 23,545 therms on November 1, 1972.

Petitioner states that the purpose of the proposed arrangement is to eliminate application of the minimum annual bill to Buckley for service under Rate Schedule DS–1 of the petitioner's FPC Gas Tariff, First Revised Volume No. 3, since Buckley had no control over said contractual negotiations respecting the Rainier School. The increase in contract demand effective November 1, 1972, is due to the expectation of commencement of service to the Rainier School on such date since the contractual problems with the State of Washington have been resolved.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with

the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-14251 Filed 8-22-72;8:50 am]

[Docket No. CS73-103, etc.]

ISABEL M. FINNUP ET AL.

Notice of Applications for "Small Producer" Certificates [1]

AUGUST 16, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Name of applicant
CS73-103...	8-7-72	Isabel M. Finnup, 119 North Main, Box 795, Garden City, KS 67846.
CS73-104...	8-7-72	Frederick Finnup, 119 North Main, Box 795, Garden City, KS 67846.
CS73-105...	8-9-72	Stahl Natural Gas Gathering Co., Box 2231, Amarillo, TX 79105.
CS73-106...	8-8-72	Hondo Production Co., Post Office Box 779, Pampa, TX 79065.
CS73-107...	8-8-72	San Ora Production Co., Post Office Box 779, Pampa, TX 79065.
CS73-108...	8-7-72	Western Reserves Oil Co., Post Office Box 993, Midland, TX 79701.
CS73-109...	8-8-72	Wise Oil Co., Ltd., 2722 1 Calgary Pl., 330 Fifth Ave. SW., Calgary, AB Canada.
CS73-112...	8-8-72	Providence Energy Corp., 602 National Bank of Tulsa, Tulsa, Okla. 74103.
CS73-113...	8-9-72	Choya Drilling Co., Post Office Box 1939, Alice, TX 78332.
CS73-114...	8-9-72	Trust for Eugene Du Pont III, Post Office Box 2529, Houston, TX 77001.

[FR Doc.72-14252 Filed 8-22-72;8:50 am]

[Docket No. CI73-103]

PETROFUNDS, INC., ET AL.

Notice of Application

AUGUST 21, 1972.

Take notice that on August 11, 1972, Petrofunds, Inc., et al. (Applicants), 2200 Esperson Building, Houston, Tex. 77002, filed in Docket No. CI73-103 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. (United) from properties owned or controlled by Applicants in the Bryceland Field, Bienville Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they commenced the sale of natural gas to United on August 1, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and propose to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicants propose to sell United an average daily quantity of up to 3,000 Mcf of gas per day at 35 cents per Mcf at 15.025 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 1, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-14386 Filed 8-22-72;8:53 am]

[Docket No. CI73-109]

SAMEDAN OIL CORP.

Notice of Application

AUGUST 21, 1972.

Take notice that on August 17, 1972, Samedan Oil Corp. (Applicant), 110 West Broadway, Ardmore, OK 73401, filed in Docket No. CI73-109 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontiental Gas Pipe Line Corp. (Transco) from certain leases in Jefferson Davis Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 60,000 Mcf of gas per month to Transco for 36 months from the date of initial delivery at 35 cents per Mcf at 15.025 p.s.i.a. within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 1, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-14387 Filed 8-22-72;8:53 am]

[Spokane River Project; Project No. 2545]

WASHINGTON WATER POWER CO.

Notice of Availability of Final Environmental Statement for Inspection

AUGUST 17, 1972.

Notice is hereby given that on August 17, 1972, a final environmental statement pursuant to section 9 of the Guidelines of the Counsel on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application, filed pursuant to the Federal Power Act, for major license for the constructed Spokane River Project, Project No. 2545, located in Spokane, Stevens, and Lincoln Counties in the State of Washington on the Spokane River.

Project No. 2545, the Spokane River Project consists of the Upper Falls, Nine Mile, Long Lake, and Monroe Street developments. The Upper Falls is a run of the river plant on the Spokane River, the Nine Mile reservoir has a surface area of about 440 acres. The Long Lake Reservoir contains 5,060 acres. The Monroe Street facility is located in downtown Spokane and this license provides for the reconstruction of the dam and generating facilities. The environmental statement is available for public inspection in the Commission's Office of Public Information, Room 2523 of the General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-14218 Filed 8-22-72;8:47 am]

FEDERAL RESERVE SYSTEM

FIRST CONNECTICUT BANCORP, INC.

Proposed Acquisition of Pioneer Credit Corporation and its Wholly-owned Subsidiary Pioneer Investment Corporation

First Connecticut Bancorp, Inc., Hartford, Conn., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission, through Pioneer Credit Corp., a subsidiary to be formed, to acquire the assets and assume the liabilities of Pioneer Credit Corp. and Pioneer Investment Corp., its wholly-owned subsidiary, both of Great Barrington, Mass. Notice of the application was published on June 27, 1972, in the Berkshire Eagle, a newspaper circulated in Pittsfield, Mass.; in the Hudson Register-Star, a newspaper circulated in Hudson, N.Y.; and in Poughkeepsie Journal, a newspaper circulated in Poughkeepsie, N.Y.

Applicant states that the proposed subsidiary would engage in the activities of a finance company making personal, business, and agricultural loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 18, 1972.

Board of Governors of the Federal Reserve System, August 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-14200 Filed 8-22-72;8:46 am]

FIRST PENNSYLVANIA CORP.

Proposed Acquisition of Pearce Colvin Finance Co.

First Pennsylvania Corp., Philadelphia, Pa., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to purchase through its wholly owned indirect subsidiary, Industrial Finance and Thrift Corp., all of the assets of Pearce Colvin Finance Co., Ruston, La. Notice of the application was published on June 29, 1972, in the Ruston Daily Leader, a newspaper circulated in Ruston, La.

Applicant states that the proposed subsidiary would engage in the activities of making, acquiring, and servicing loans or other extensions of credit for personal, family, or household purposes, including the sale of credit insurance (life, accident, and health and disability insurance) which is directly related to such consumer loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 18, 1972.

Board of Governors of the Federal Reserve System, August 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-14201 Filed 8-22-72;8:46 am]

FIRST PENNSYLVANIA CORP.

Proposed Acquisition of Great Acceptance Corp.

First Pennsylvania Corp., Philadelphia, Pa., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to purchase through its wholly owned indirect subsidiary, Industrial Finance and Thrift Corp., all of the assets of Great Acceptance Corp., Houma, La. Notice of the application was published on June 30, 1972, in the Houma Daily Courier, a newspaper circulated in Houma, La., and on June 28, 1972, in the Daily Comet, a newspaper circulated in Thibodaux and Galliano, La.

Applicant states that the proposed subsidiary would engage in the activities of making, acquiring, and servicing loans or other extensions of credit for personal, family or household purposes, including the sale of insurance (life, accident, and health and disability insurance) which is directly related to such consumer loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 18, 1972.

Board of Governors of the Federal Reserve System, August 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-14202 Filed 8-22-72;8:46 am]

SHAWMUT ASSOCIATION, INC.

Acquisition of Bank

Shawmut Association, Inc., Boston, Mass., 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 up to 100 percent of the voting shares of the First National Bank of New Bedford, New Bedford, Mass. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 8, 1972.

Board of Governors of the Federal Reserve System, August 17, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-14203 Filed 8-22-72;8:46 am]

UNITED CAROLINA BANCSHARES CORP.

Proposed Retention of First Credit Corp. and Certain of the Assets of Atlantic Loan Co.

United Carolina Bancshares Corp., Whiteville, N.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain the business of First Credit Corp., with offices in Shallotte and Wilmington, N.C., and certain of the assets of Atlantic Loan Co., Wilmington, N.C.

On March 20, 1971, applicant's subsidiary bank, Waccamaw Bank and Trust Co., acquired the business offices of First Credit Corp., Shallotte, N.C., to avoid a serious loan loss. On April 4, 1972, applicant, through First Credit Corp., indirectly acquired certain of the assets of Atlantic Loan Co., of Wilmington, N.C., which is now operated as the Wilmington office of First Credit Corp.

Notice of the application was published on June 1 and June 2, 1972, in the Star-News Newspaper, a newspaper circulated in New Hanover County, N.C., and the Brunswick Beacon, a newspaper circulated in Brunswick County, N.C.

Applicant states that the proposed subsidiary would continue to engage in the activities of: (1) the making of loans with a cash advance of $900 or less; (2) acting as agent with respect to credit life insurance that is directly related to any extension of credit by it; and (3) acting as agent with respect to accident and health insurance that is directly related to any extension of credit by it. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 18, 1972.

Board of Governors of the Federal Reserve System, August 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-14204 Filed 8-22-72;8:46 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-152]

SECRETARY OF DEFENSE

Delegation of Authority To Represent Consumer Interests

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Alabama Public Service Commission in a proceeding involving the application of the Alabama Power Co. for a rate increase (Docket No. 16571).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 16, 1972.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.72-14243 Filed 8-22-72;8:49 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

BLACK DIAMOND COAL MINING CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for renewal permits for noncompliance with the electric face equipment standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

ICP Docket No. 3020 000 Black Diamond Coal Mining Co., Black Diamond Mine, USBM ID No. 01 00324 0, Birmingham, Jefferson County, Ala.

ICP Permit No. 3020 007 (Joy Mfg. Co. Shuttle Car, Ser. No. ET 3089).

ICP Permit No. 3020 008 (Joy Mfg. Co. Shuttle Car, Ser. No. ET 4355).

ICP Permit No. 3020 009 (Jeffrey Mfg. Co. Mining Machine, Ser. No. 22968).

In accordance with the provisions of Section 305(a)(7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

AUGUST 18, 1972.

[FR Doc.72-14255 Filed 8-22-72;8:50 am]

OFFICE OF EMERGENCY PREPAREDNESS

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), amended July 2, 1972, and published July 14, 1972 (37 F.R. 13825), amended July 19, 1972, and published July 25, 1972 (37 F.R. 14838); 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:

Accomack.	Lancaster.
Charles City County.	Mathews.
	Middlesex.
Gloucester.	Northampton.
Isle of Wight.	Northumberland.
James City County.	Surry.
King George.	York.

The cities of:

Chesapeake.	Norfolk.
Hampton.	Portsmouth.
Nansemond.	Virginia Beach.
Newport News.	Williamsburg.

Dated: August 18, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-14244 Filed 8-22-72;8:49 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 928; Class B]

RHODE ISLAND

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of July 1972, because of the effects of certain disaster damage resulted to business property located in the State of Rhode Island;

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 Administrator 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 Kent and Providence Counties, R.I., suffered damage or destruction resulting from extensive flooding on July 25, 1972.

OFFICE

Small Business Administration District Office, 57 Eddy Street, Providence, RI 02903.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to November 30, 1972.

Dated: August 2, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-14209 Filed 8-22-72;8:47 am]

[MESBIC License Application 01/01-5268]

W.C.C.I. CAPITAL CORP.

Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by W.C.C.I. Capital Corp. (applicant) with the Small Business Administration (SBA) pursuant to section 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1972)).

The officers and directors of the applicant are as follows:

Michael W. Tierney, 36 Roxbury Street, Worcester, MA 01609, President, Director.

Richard F. Sullivan, 14 Williamsburg Court, Shrewsbury, MA 01545, Treasurer, Director.

Alfred Cravedi, Jr., 302 Belmont Street, Worcester, MA 01604, Manager.

Alexander E. Drapos, 76 June Street, Worcester, MA 01602, Clerk, Director.

William A. Belanger, 29 Tirrell Street, Worcester, MA 01603, Director.

Charles H. Evans, 20 Whiteman Road, Woresster, MA 01609, Director.

Lane W. Goss, 5 Metcalf Street, Worcester, MA 01609, Director.

Thomas S. Green, Jr., 18 Butternut Hill Road, Worcester, MA 01609, Director.

Eunice A. Lewis, 18 Mason Street, Worcester, MA 01609, Director.

Grace K. Perno, 29 Dewey Street, Worcester, MA 01609, Director.

Charles W. Walsh, 84 Piedmont Street, Worcester, MA 01609, Director.

The applicant, a Massachusetts corporation, with its principal place of business located at 791 Main Street, Worcester, MA 01610, will begin operations with $192,000 of paid-in capital, consisting of 100 shares of common stock. All of the issued and outstanding stock will be owned by the Worcester Corporation Council, Inc., a nonprofit corporation receiving its principal funding from the Worcester Model Cities Department, and located at the same address as W.C.C.I. Corp.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any person may, not later than 15 days from the date of publication of this notice, submit written comments to SBA on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Worcester, Mass.

Dated: August 16, 1972.

CLAUDE ALEXANDER,
Associate Administrator for Operations and Investment.

[FR Doc.72-14210 Filed 8-22-72;8:47 am]

INTERSTATE COMMERCE COMMISSION

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

[Notice 22]

AUGUST 18, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 625), GREYHOUND LINES, INC., (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed August 8, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) from Berwick, La., over U.S. Highway 90 to Calumet, La., (2) from junction U.S. Highway 90 and Louisiana Highway 85 to a point just north of Jeanerett, La., over Louisiana Highway 85 to junction U.S. Highway 90, thence over U.S. Highway 90 (access roads) to Lafayette, La., and (3) from New Iberia, La., over Louisiana Highway 14 to junction U.S. Highway 90, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: from Morgan City, La., over U.S. Highway 90 to junction Louisiana Highway 182 at Berwick, La., thence over Louisiana Highway 182 to junction U.S. Highway 90, at Calumet, La., thence over U.S. Highway 90 to junction Louisiana Highway 182 at a point just north of Jeanerette, La., thence over Louisiana Highway 182 to Lafayette, La., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-14272 Filed 8-22-72;8:51 am]

[Notice 67]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

AUGUST 18, 1972.

The following publications[1] are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 136113 (Republication), filed October 4, 1971, published in the FEDERAL REGISTER issue of November 25, 1971, and republished this issue. Applicant: ADELPHI SALES CO., INC., 31 Grand Street, Brooklyn, NY 11211. Applicant's representative: Jason Horn (same address as applicant). An order of the Commission, Operating Rights Board, dated July 24, 1972, and served August 2, 1972, finds, that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of candy and confectionery, from points in that portion of the New York, N.Y., commercial zone as defined by the Commission in the Fifth Supplemental Report in commercial zones and terminal areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption provided by section 203(b)(8) of the act (the "exempt" zone) to points in Bergen, Hudson, Essex, Morris, Passaic, Union, and Middlesex Counties, N.J., under a continuing contract with Jaret Imports, Inc., of Brooklyn, N.Y., and Son-E-Boy Brands, Inc., of Brooklyn, N.Y., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading setting forth in precise detail the manner in which it has been so prejudiced.

No. MC 89684 (Sub-Nos. 49, 54, 57, 58, 63, and 74) (notice of filing of petition to amend weight limit on small package service) filed June 26, 1972. Petitioner: WYCOFF COMPANY, INCORPORATED, Salt Lake City, Utah. Petitioner's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah. Petitioner holds authority in (a), (b), (c), (d), (e), and (f). (a) Regular routes: *General commodities* moving in express service, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Boise and Weiser, Idaho, serving all intermediate points, and the off-route points of Vale and Adrian, Oreg., from Boise over U.S. Highway 30 to junction U.S. Highway 20 west of Caldwell, Idaho, thence over U.S. Highway 20 via Nyssa, Oreg., to junction Oregon Highway 201, thence over Oregon Highway 201 to Ontario, Oreg., thence over U.S. Highway 30 to junction U.S. Highway 30N, thence over U.S. Highway 30N to Weiser, and return over the same route. From Boise over Idaho Highway 44 to junction Idaho Highway 16 near Star, Idaho, thence over Idaho Highway 16 via Emmett, Idaho, to junction Idaho Highway 52, thence over Idaho Highway 52 to Payette, Idaho, thence over U.S. Highway 30N to Weiser, and return over the same route. Between Parma and Caldwell, Idaho, serving all intermediate points: From Parma over U.S. Highway 95 to junction Idaho Highway 55 (formerly shown Idaho Highway 72) west of Marsing, Idaho, thence over Idaho Highway 55 via Marsing, Idaho, to junction unnumbered highway, thence over unnumbered highway to Caldwell, and return over the same route. Between Payette and Caldwell, Idaho, serving all intermediate points:

[1] Except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

From Payette over U.S. Highway 30N via Fruitland, Idaho, to junction U.S. Highway 30, thence over U.S. Highway 30 to Caldwell, and return over the same route. Between Boise and Caldwell, Idaho, serving all intermediate points: From Boise over combined U.S. Highways 20 and 26 to Caldwell, and return over the same route. Between Fruitland and Parama, Idaho, serving all intermediate points: From Fruitland over U.S. Highway 95 to Parama, and return over the same route. Between Ontario and Weiser, Idaho, serving all intermediate points: From Ontario over Oregon Highway 201 to the Snake River, thence across the Snake River to Weiser, and return over the same route. Between Wilder and Caldwell, Idaho, serving all intermediate points: From Wilder over Idaho Highway 19 to Caldwell, and return over the same route. Between Homedale and Caldwell, Idaho, serving all intermediate points: From Homedale over unnumbered highway to Caldwell, and return over the same route. Between Nampa and Meridian, Idaho, serving all intermediate points: From Nampa over unnumbered highways to junction Idaho Highway 69, and thence over Idaho Highway 69 to Meridian, and return over the same route. Restriction: The operations authorized herein are subject to the following conditions: Carrier shall conduct separately its for-hire carrier operation and its other business activities. Carrier shall maintain separate accounts and records therefor. Carrier shall not transport property as both a private and for-hire carrier in the same vehicle at the same time. Said operations are restricted (1) to the transportation of packages or articles each weighing not more than 100 pounds and (2) against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day;

(b) Regular routes: *General commodities*, except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Salt Lake City, Utah, and the Idaho-Montana State line, serving all intermediate points, and serving Bountiful, Utah, as an off-route point: From Salt Lake City over U.S. Highway 91 to Brigham City, Utah, thence over U.S. Highway 191 to junction U.S. Highway 91, and thence over U.S. Highway 91 to the Idaho-Montana State line, and return over the same route. Between Idaho Falls, Idaho, and St. Anthony, Idaho, serving all intermediate points: From Idaho Falls over U.S. Highway 191 to St. Anthony, and return over the same route. Between Downey, Idaho, and Brigham City, Utah, serving all intermediate points, and the off-route point of Hyde Park, Utah, and Oxford, Clifton, and Dayton, Idaho: From Downey over U.S. Highway 91 to Brigham City, and return over the same route. Between St. Anthony and Ashton, Idaho, serving all intermediate points: From St. Anthony over U.S. Highway 191 to Ashton, and return over the same route. Between junction U.S. Highways 30N and 91, near McCammon and Preston, Idaho, serving all intermediate points: From junction U.S. Highways 30N and 91 over U.S. Highway 30N to junction Idaho Highway 34, and thence over Idaho Highway 34 to Preston, and return over the same route. Between Malta and Declo, Idaho, serving all intermediate points: From Malta over unnumbered highway to Declo, and return over the same route. Between junction U.S. Highway 191 and U.S. Highway 26 northeast of Idaho Falls and Rigby, Idaho, serving all intermediate points:

From junction U.S. Highway 191 and U.S. Highway 26 over U.S. Highway 26 to Ririe, Idaho, and thence over Idaho Highway 48 to Rigby, and return over the same route. Between junction U.S. Highway 30N and Idaho Highway 34, west of Alexander, Idaho, and Logan, Utah, serving all intermediate points in Idaho, and the off-route point of Conda, Idaho: From junction U.S. Highway 30N and Idaho Highway 34 over U.S. Highway 30N to Montpelier, Idaho, and thence over U.S. Highway 89 to Logan, and return over the same route. Between junction U.S. Highways 89 and 91, north of Salt Lake City, Utah, and Ogden, Utah, serving all intermediate points: From junction U.S. Highways 89 and 91 over U.S. Highway 89 to Ogden, and return over the same route. Between junction U.S. Highways 191 and 30S, near Trementon, Utah, and Caldwell, Idaho, serving all intermediate points: From junction U.S. Highways 191 and 30S over U.S. Highway 30S to Declo, Idaho, thence over unnumbered highway across the Snake River to Rupert, Idaho, thence over Idaho Highway 25 to Paul, Idaho, thence over unnumbered highway across the Snake River to Burley, Idaho (also from Declo to Burley over U.S. Highway 30S), thence over U.S. Highway 30 via Twin Falls, Boise, and Nampa, Idaho, to Caldwell, and return over the same route. Between Bliss and Shoshone, Idaho, serving all intermediate points: From Bliss over U.S. Highway 20 to Shoshone, and return over the same route. Between Bliss and Paul, Idaho, serving all intermediate points:

From Bliss over Idaho Highway 25 to Paul, and return over the same route. Between Gooding and Wendell, Idaho, serving all intermediate points: From Gooding over Idaho Highway 46 to Wendell, and return over the same route. Between Pocatello and Rupert, Idaho, serving all intermediate points, and the off-route point of Aberdeen, Idaho: From Pocatello over U.S. Highway 30N to junction unnumbered highway north of Declo, Idaho, and thence over unnumbered highway to Rupert, and return over the same route. Between Salt Lake City and Spanish Fork, Utah, serving all intermediate points, and all off-route points in Salt Lake County, Utah: From Salt Lake City over U.S. Highway 91 to Spanish Fork, and return over the same route. Between Spanish Fork and Richfield, Utah, serving all intermediate points, and the off-route points of Fountain Green, Moroni, and Monroe, Utah: From Spanish Fork over U.S. Highway 6 to Thistle, Utah, and thence over U.S. Highway 89 to Richfield, and return over the same route. Between Spanish Fork, and Delta, Utah, serving Eureka, Utah, as an intermediate point: From Spanish Fork over U.S. Highway 6 to Delta, and return over the same route. Between Thistle and Moab, Utah, serving all intermediate points, and the off-route points of Kenilworth, Sunnyside, Dragerton, Columbia, Huntington, and Castle Dale, Utah: From Thistle over U.S. Highway 50 to Crescent Junction, and thence over U.S. Highway 160 to Moab, and return over the same route. Between Salt Lake City and Vernal, Utah, serving all intermediate points, and the off-route points of Park City and Midway, Utah:

From Salt Lake City over U.S. Highway 40 to Vernal, and return over the same route. Between junction Idaho Highway 25 and U.S. Highway 93, and Sun Valley, Idaho, serving all intermediate points. From junction Idaho, Highway 25 and U.S. Highway 93 over U.S. Highway 93 to junction Idaho Highway 75, and thence over Idaho Highway 75 to Sun Valley, and return over the same route. Between junction U.S. Highways 91 and 191 south of Pocatello and Idaho Falls, Idaho, serving all intermediate points: From junction U.S. Highways 91 and 191 over U.S. Highway 191 to Idaho Falls, and return over the same route. Serving all points in that part of Idaho south of Idaho County (which are not on the regular routes described above) as off-route points. Restriction: The service authorized herein is subject to the following conditions: Said service is restricted (1) to the transportation of packages or articles each weighing not more than 100 pounds, and (2) against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day. (c) Regular routes: *General commodities*, except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Kimball Junction and Echo, Utah, serving all intermediate points: From Kimball Junction over U.S. Highway 40 to junction U.S. Highway 189, thence over U.S. Highway 189 to Echo, and return over the same route. Between Ogden, Utah, and Rawlings, Wyo., serving all intermediate points, and serving Mountain View, Wyo., as an off-route point: From Ogden over U.S. Highway 30S via Echo, Utah, to junction U.S. Highway 30 at or near Little America, Wyo., thence over U.S. Highway 30 to Rawlings, and return over the same route. Between junction U.S. Highways 30 and 30N at or near Little America, Wyo., and Montpelier, Idaho, serving all intermediate points: From junction U.S. Highway 30 and 30N over U.S. Highway 30N to Montpelier and return over the same route. Between Rock Springs and

Jackson, Wyo., serving all intermediate points, and serving Wilson, Wyo., as an off-route point:

From Rock Springs over U.S. Highway 187 to Jackson, and return over the same route. Between junction U.S. Highways 189 and 30S, approximately 13 miles east of Evanston, Wyo., and junction U.S. Highways 189 and 187, approximately 2 miles north of Daniel, Wyo., serving all intermediate points: From junction U.S. Highways 189 and 30S over U.S. Highway 189 to junction U.S. Highway 187, and return over the same route. Between junction U.S. Highways 26 and 187, approximately 15 miles south of Jackson, Wyo., and Ririe, Idaho, serving Alpine, Wyo., and all intermediate points: From junction U.S. Highways 26 and 187 over U.S. Highway 26 to Ririe, and return over the same route. Restriction: The service authorized herein is subject to the following conditions: The operations authorized herein are restricted to the transportation of packages or articles each weighing not more than 100 pounds. Said operations are restricted against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day; (d) regular routes: *General commodities*, except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Humphrey, Idaho, and Butte, Mont., serving all intermediate points: From Humphrey over U.S. Highway 91 to Butte, and return over the same route. Between Dillon, Mont., and Butte, Mont., serving all intermediate points, and serving Sheridan, Mont., as an off-route point: From Dillon over Montana Highway 41 to junction U.S. Highway 10, thence over U.S. Highway 10 to Butte, and return over the same route.

Restriction: The service authorized herein is subject to the following conditions: The operations authorized are restricted to the transportation of packages or articles each weighing not more than 100 pounds. Said operations are restricted against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day; (e) regular routes: *General commodities*, except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Denver, Colo., and Rawlings, Wyo., serving all intermediate points: From Denver over U.S. Highway 287 to Rawlings, and return over the same route. Between Denver, Colo., and Vernal, Utah, serving all intermediate points: From Denver over U.S. Highway 40 to Vernal, and return over the same routes. Between Denver, Colo., and Crescent Junction, Utah, serving all intermediate points: From Denver over U.S. Highway 6 to Crescent Junction, and return over the same route. Between Moab and Monticello, Utah, serving all intermediate points: From Moab over U.S. Highway 160 to Monticello, and return over the same route. Between Price and Ferron, Utah, serving all intermediate points: From Price over Utah Highway 10 to Ferron, and return over the same route. Between Spanish Fork and St. George, Utah, serving all intermediate points, and the off-route points of Minersville and Hurricane, Utah: From Spanish Fork over U.S. Highway 91 to St. George, and return over the same route. Restriction: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of packages or articles each weighing not more than 100 pounds. Said operations are restricted against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day; and (f) regular routes:

General commodities, except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Swan Valley, Idaho, and Jackson, Wyo., as an alternate route for operating convenience only in connection with carrier's presently authorized regular-route operations, serving no intermediate points: From Swan Valley over Idaho Highway 31 to junction Idaho Highway 22 at Victor, thence over Idaho Highway 22 to the Idaho-Wyoming State line, thence over Wyoming Highway 22 to Jackson, and return over the same route. Restriction: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of packages or articles each not exceeding 100 pounds in weight. Said operations are restricted against the transportation of packages or articles weighing in the aggregate more than 200 pounds from one consignor to one consignee on any one day. Petitioner seeks to amend the above-mentioned certificate by deleting the restriction "against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day," and substituting in lieu thereof, "against the transportation of packages or articles weighing more than 500 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day." Any person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC–113908 (Sub-Nos. 148 and 164) (Notice of Filing of Petition for Modification of Commodity Description), filed July 13, 1972. Petitioner: ERICKSON TRANSPORT CORPORATION, Springfield, Mo. 65806. Petitioner's representative: Turner White, White and Dickey, 805 Woodruff Building, Springfield, Mo. 65806. Petitioner presently holds (a) Certificate No. MC–113908 (Sub-No. 148), authorizing operation as a common carrier by motor vehicle, over irregular routes, of liquid animal and poultry feed supplements, in bulk, in tank vehicles, from Springfield and Verona, Mo., to points in Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, New York, Ohio, South Carolina, and Tennessee, and (b) Certificate No. MC–113908 (Sub-No. 164), authorizing operation as a common carrier by motor vehicle, over irregular routes, of liquid animal and poultry feed supplements, in bulk, in tank vehicles, from Springfield and Verona, Mo., to points in Maryland. Petitioner states that the chemicals which are the subject of the two mentioned certificates are utilized in the production of animal and poultry feeds and are manufactured by Hoffman-Taff, Inc., with plants at the two mentioned points. Petitioner states that the application for the mentioned certificates were both supported by Hoffman-Taff, Inc., and that petitioner is informed by Hoffman-Taff, Inc., that its users of the products within the commodity description are changing their operations from liquid to dry products. Applicant therefore seeks amendment of the certificates to delete the word "liquid" so that each certificate as amended will provide for a commodity description of "animal and poultry feed supplements, in bulk, in tank vehicles." Interested persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 200 (Sub-No. 256), filed July 24, 1972. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Box 2809, Kansas City, MO 64142. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, MA 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, livestock, live poultry, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Massachusetts. NOTE: This application is a matter directly related to MC–F–11612, published in the FEDERAL REGISTER issue of July 26, 1972. The instant application seeks to convert the Certificate of Registration of R D Truck Lines, Inc. under MC 120786 (Sub-No. 1) into a Certificate of Public Convenience and Necessity. Common control may be involved. Applicant states that tacking is intended at Springfield, Holyoke, and Boston, Mass. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1100.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11624. Authority sought for purchase by POPELKA TRUCKING CO., Post Office Box 990, Livingston, MT 59047, of a portion of the operating rights and certain property of DICK JONES TRUCKING, Post Office Box 965, Powell, WY 82435, and for acquisition by WAYNE WAGGONER, 405 East Lewis, Livingston, MT 59047, and GLENN E. NEILSEN, Cody, Wyo. 82414, of control of such rights and property through the purchase. Applicants' attorney: Stockton and Lewis, The 1650 Grant Street Building, Denver, Colo. 80203. Operating rights sought to be transferred: *Phosphoric acid and dry fertilizer*, as a *common carrier*, over irregular routes, from Anaconda, Mont., to Powell, Wyo., and points in Wyoming within 50 miles of Powell; *agricultural commodities, building materials (except cement), livestock feed, seed, farm machinery, and farm equipment and farm machinery and farm equipment parts*, between Meeteese, Wyo., and points other than incorporated towns and cities in Big Horn, Hot Springs, Park, and Washakie Counties, Wyo., on the one hand, and, on the other, points in Montana beyond 175-mile radius of Powell, Wyo.; *Animal and poultry feeds*, from Denver, Colo., to points in Park, Big Horn, and Hot Springs Counties, Wyo.; *poles, posts, lumber, structural wood beams, laminated wood beams, plywood, sheeting, shingles, and flooring*, from points in Washington and Idaho, to points in Fremont, Hot Springs, Washakie, Big Horn, and Park Counties, Wyo.; *asphalt, asphalt compounds, and derivatives thereof*, in cartons and containers, from Cody, Wyo., to points in Colorado, Idaho, Nebraska, North Dakota, South Dakota, Utah, and to points in Montana beyond 175-mile radius of Powell, Wyo.; *animal and poultry feeds*, in bags, from Denver, Colo., to points in Fremont County, Wyo.;

Clay, diatomaceous earth and drilling mud conditioners, from the plantsite of the International Minerals and Chemical Corp., at or near Belle Fourche, S. Dak., to points in Wyoming; *gypsum board, gypsum sheathing, gypsum lath, plaster and accessories to the named commodities*, from Cody, Wyo., to points in Colorado; *materials and supplies* used in the manufacture or installation of the commodities described above, from points in Colorado to Cody, Wyo.; *building materials, gypsum and gypsum products and materials and supplies*, used in the installation or application of such commodities, from Cody, Wyo., to points in Washington, Oregon, Idaho, North Dakota, South Dakota, and Nebraska; *charcoal briquets and lumpwood charcoal*, in packages, from Lehigh, N. Dak., to Rapid City, S. Dak., and points in Montana and Wyoming; *building materials, gypsum and gypsum products and composition boards, and materials and supplies* used in the installation and application of such commodities, from Cody, Wyo., to points in Utah; *uranium ore*, in bulk, from points in Carbon, Yellowstone, Big Horn, Park, and Stillwater Counties, Mont., to the Riverton Uranium Buying Station at Riverton, Wyo., between points in Carbon, Yellowstone, Big Horn, Park, and Stillwater Counties, Mont., between points in Carbon County, Mont., and points in Park and Big Horn Counties, Wyo.;

Machinery and related machinery parts, when their transportation is incidental to the transportation of *machinery*, and *agricultural commodities*, in bulk, between points in Big Horn, Park, Washakie, and Hot Springs Counties, Wyo., on the one hand, and, on the other, points in Montana, beyond 175-mile radius of Powell, Wyo., with restriction; *Building materials* (except cement) and *pipe*, between points in Big Horn, Park, Washakie and Hot Springs Counties, Wyo., on the one hand, and, on the other, points in Montana beyond 175-mile radius of Powell, Wyo.; and *Seed, livestock feed, and agricultural commodities*, except those in bulk, between points other than incorporated towns and cities in Big Horn, Park, Washakie, and Hot Springs Counties, Wyo., on the one hand, and, on the other points in Montana, beyond 175-mile radius of Powell, Wyo. Vendee is authorized to operate as a *common carrier* in Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, Wisconsin, Wyoming, and Utah. Vendee has filed application for *contract carrier* rights. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11625. Authority sought for purchase by SMITH'S TRANSFER CORPORATION, Box 1000, Staunton, VA 24401, of the operating rights of QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403, and for acquisition by R. R. SMITH and R. P. HARRISON, both of Staunton, VA 24401, of control of such rights through the purchase. Applicants' attorney: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over regular routes, between Baltimore, Md., and Wheeling, W. Va., between Frederick, Md., and Parkersburg, W. Va., between Charleston, W. Va., and Huntington, W. Va., between Pike, W. Va., and Bluefield, W. Va., between Williamson, W. Va., and Morgantown, W. Va., between Clendenin, W. Va., and Elkins, W. Va., between Newell, W. Va., and junction West Virginia Highway 20 and U.S. Highway 19, between Sistersville, W. Va., and Salem, W. Va., between Moundsville, W. Va., and Bridgeport, W. Va., between Fairmont, W. Va., and Kingwood, W. Va., between Reedsville, W. Va., and junction West Virginia Highway 92 and U.S. Highway 50 (near Fellowsville, W. Va.), between Clarksburg, W. Va., and Parsons, W. Va., between Buckhannon, W. Va., and junction West Virginia Highways 20 and 57, between Norton, W. Va., and junction U.S. Highway 250 and West Virginia Highway 38, with restrictions;

General commodities, except livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Terra Alta, W. Va., and Mountain Lake Park, Md., between Terra Alta, W. Va., and Manheim, W. Va., between Terra Alta, W. Va., and Davis, W. Va., between Terra Alta, W. Va., and Elk Garden, W. Va., between Terra Alta, W. Va., and Cascade , W. Va., Va., between Terra Alta, W. Va., and Frostburg, Md., between Terra Alta, W. Va., and Independence, W. Va., between Terra Alta, W. Va., and Cascade, W. Va., between Terra Alta, W. Va., and Glade Farms, W. Va.; *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes, between points in Maryland and West Virginia within 10 miles of Oakland, Md., including Oakland, between points in Tucker County, W. Va., on the one hand, and, on the other, Oakland, Md., and points in West Virginia;

General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, over irregular routes, between points in Preston County, W. Va., on the one hand, and, on the other, points in Garrett County, Md., between points in Garrett County, Md., on the one hand, and, on the other, points in West Virginia, with restriction; *general commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special

equipment, and those injurious or contaminating to other lading, over irregular routes, between Cumberland, Md., and Hagerstown, Md., and between Cumberland, Hagerstown, and Baltimore, Md., on the one hand, and, on the other, points in Garrett County, Md., and points in that part of West Virginia east of a line beginning at the West Virginia-Pennsylvania State line and extending along U.S. Highway 19 to Ireland, and north of a line beginning at Ireland, and extending through Cleveland, Bernardstown, and Marlinton to the West Virginia-Virginia State line; *logs and lumber*, over irregular routes, from Erwin, W. Va., to points in that part of West Virginia and Maryland within 40 miles of Erwin, and between Erwin, W. Va., and points within 20 miles of Erwin, on the one hand, and, on the other, Pittsburgh, Pa.; *condensed milk and cream*, over irregular routes, between Oakland, Md., and Parkersburg, W. Va., from Oakland, Md., to Morgantown, Fairmont, Clarkesburg, and Huntington, W. Va., and Cumberland, Md.;

Farm products, over irregular routes, from points in Garrett County, Md., to points in that part of West Virginia east of U.S. Highway 19 and north of a line beginning at Weston, and extending along U.S. Highway 33 to Elkins, and thence along U.S. Highway 219 to the West Virginia-Maryland State line, including points on the indicated portions of the highways specified; *Livestock*, over irregular routes, from points in Preston County, W. Va., and Garrett County, Md., to Pittsburgh, Pa., and Baltimore, Md., and between points in Preston County, W. Va., on the one hand, and, on the other, Uniontown, Point Marion, and Pittsburgh, Pa.; *sand and gravel*, over irregular routes, from Fairfax and Terra Alta, W. Va., and points within 2 miles of each, to Oakland, Md., and points within 5 miles of Oakland; and *lime and road building materials*, over irregular routes, from Greer, Terra Alta, and Aurora, W. Va., to Oakland, Md., and points within 10 miles of Oakland. Vendee is authorized to operate as a *common carrier* in Virginia, West Virginia, Kentucky, South Carolina, North Carolina, New York, Pennsylvania, New Jersey, Maryland, District of Columbia, Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Indiana, Tennessee, Georgia, Illinois, Ohio, Missouri, Michigan, Kansas, Wisconsin, and Minnesota. Application has not been filed for temporary authority under section 210a(b).

NOTICE

The St. Joseph and Grand Island Railway Co., applicant, 1416 Dodge Street, Omaha, NE 68102, gives notice that on August 4, 1972, J. J. Burchell, its attorney, same address, filed with the Interstate Commerce Commission its application for approval of trackage rights and use of a 0.92 mile portion of the Hastings Branch of the Union Pacific Railroad Co. in the city of Hastings, Adams County, Nebr. This application has been assigned Finance Docket No. 27158.

In accordance with Commission regulations (49 CFR 1100.250) *Implementation—National Environmental Policy Act, 1969*, any protests may include a statement indicating the presence or absence of any effect of the requested Commission action of the quality of the human environment. If any such effect is alleged to be present the statement shall include information respecting the facts as set forth in 49 CFR 1100.250, (b)(2)(i)–(iv), (37 F.R. 6318, March 28. 1972). The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER. In the opinion of the applicant, the authority sought, and the requested Commission action will have no significant effect on the quality of the human environment.

St. Joseph and Grand Island Railway Co. and the Union Pacific Railroad Co. hereby give notice that on the 4th day of August 1972, they filed with the Interstate Commerce Commission at Washington, D.C., an application for a certificate of public convenience permitting abandonment of a line of railroad extending from milepost 227.17 to milepost 228.09, a distance of 0.92 mile, in the city of Hastings, Adams County, Nebr. This abandonment application has been assigned Finance Docket No. 27159. On the same date, the St. Joseph and Grand Island Railway Co. filed an application for approval of trackage rights over 4,875 feet of the Union Pacific Railroad Co.'s parallel Hastings Branch in the same area the abandonment is to take place. In the opinion of the applicants, the authority sought, and the requested Commission action will have no significant effect on the quality of the human environment. The proceedings will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. In accordance with the Commission's regulations (49 CFR 1100.250), in Ex Parte No. 55 (Sub-No. 4), Implementation-National Environmental Policy Act, 1969, 340 ICC 431 (1972), any protests may include a statement indicating the present or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present the statement shall include such information relating to the facts set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b) (1)–(5), 340 ICC 431, 461. Any person opposed to this abandonment application should advise the Commission promptly with an original and six copies identifying the docket number, and send a copy of the protest to Mr. J. J. Burchell, General Attorney, Union Pacific Railroad Co., 1416 Dodge Street, Omaha, NE 68102. All protests submitted to the Commission must be filed no later than 30 days after publication in FEDERAL REGISTER.

Richardson Dilworth and Andrew L. Lewis, Jr., trustees of the property of Reading Co., Debtor, have filed an application in Finance Docket No. 27161 with the Interstate Commerce Commission at Washington, D.C., seeking authority, pursuant to section 5(2) of the Interstate Commerce Act, to acquire trackage rights over lines operated by the Lehigh Valley Railroad Co. between Allentown, Pa., and Phillipsburg, N.J.

(1) The name and address of applicants are Richardson Dilworth and Andrew L. Lewis, Jr., trustees of the property of Reading Co., Debtor, Reading Terminal, Philadelphia, Pa. 19107.

The name and address of attorney for Reading Co., Debtor, are Alfred W. Hesse, Jr., 415 Reading Terminal, Philadelphia, PA 19107.

(2) The proposed transaction is acquisition of trackage rights by a carrier subject to Part I of the Interstate Commerce Act over lines of railroad operated by Lehigh Valley Railroad Co.

(3) Authority is sought to run through freight trains between the connection of the Allentown Terminal Railroad in Lehigh County, Pa., with the lines railroad operated by Lehigh Valley Railroad, across the Lehigh River at the former Bethlehem passenger station to the point of connection of Lehigh Valley Railroad's connection with Central Railroad Co. of New Jersey in Phillipsburg, N.J.

(4) The line of railroad involved operated by Lehigh Valley Railroad extends from the connection with Allentown Terminal Railroad in Lehigh County, Pa., across the Lehigh River, through Northampton County, Pa., and into Phillipsburg in Warren County, N.J., a distance of approximately 16 miles.

The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings.

Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

In the opinion of the applicants, the proposed transaction will not significantly affect the quality of the human environment.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-14273 Filed 8-22-72;8:52 am]

[Notice 114]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 16, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30844 (Sub-No. 416 TA) (Correction), filed July 12, 1972, published in the FEDERAL REGISTER issue of July 28, 1972, corrected and republished in part as corrected this issue. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000 (50702), Waterloo, IA 50704. Applicant's representative: John P. Rhodes (same address as above). NOTE: The purpose of this partial republication is to include Dubuque, Iowa, as a destination point, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 80428 (Sub-No. 82 TA), filed July 31, 1972. Applicant: McBRIDE TRANSPORTATION, INC., Post Office Box 430, 289 West Main Street, Goshen, NY 10924. Applicant's representative: Raymond A. Richards, 44 North Avenue, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and invert sugar, corn sirup, and blends of liquid or invert sugar and corn sirups and flavoring sirups*, in bulk, from New York, N.Y., and Yonkers, N.Y., to points in Delaware, Maryland, and Pennsylvania (except Williamsport, Milton, Berwick, Hazleton, Kingston, Scranton, and Wilkes-Barre), and Alexandria, Va., for 180 days. NOTE: Authority is not requested for transportation as follows: (a) Blends or mixtures of corn sirup and liquid or invert sugar, and blends or mixtures of corn sirup and liquid and invert sugar, in bulk, in tank vehicles, from Long Island City, N.Y., to Annapolis, Md.; (b) flavoring sirup used in the manufacturing of carbonated beverages from Long Island City, N.Y., to Baltimore, Md., and Pittsburgh, Pa., and (c) flavoring sirup and invert and liquid sugar from Long Island City, N.Y., to Annapolis, Md. Supporting shippers: CPC International, Corn Industrial, Federal Street, Yonkers, N.Y. 10702; SuCrest Corp., 120 Wall Street, New York, NY 10005, and Pepsico, Inc., Purchase, N.Y. 10577. Send protests to: Joseph M. Barnini, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 107295 (Sub-No. 627 TA), filed August 1, 1972. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, wood fiberboard faced or finished with decorative and/or protective materials and accessories and supplies* used in the installation thereof (except commodities in bulk), from Moncure, N.C., to points in Missouri, for 180 days. Supporting shipper: Gordon T. Adams, Group Traffic Manager, Evans Products Co., 201 Dexter Street West, Chesapeake, VA 23324. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 107496 (Sub-No. 857 TA), filed August 2, 1972. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua at Third Street (Post Office Box 855, 50304), Des Moines, IA 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, in bulk, in tank vehicles, from Rewey, Wis., to points in Minnesota, Iowa, and Illinois; and from Shannon, Ill., to points in Iowa and Wisconsin, for 150 days. Supporting shipper: Liquid Feed Commodities, Inc., Box 974, Fremont, NE 68025. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 112391 (Sub-No. 36 TA) (Correction), filed June 6, 1972, published in the FEDERAL REGISTER issue of June 22, 1972, corrected and republished in part as corrected this issue. Applicant: HADLEY AUTO TRANSPORT, 7428 Paramount Boulevard, Post Office Box 96, Pico Rivera, CA 90660. Applicant's representative: Phil Jacobson, 510 West Sixth Street, Los Angeles, CA. NOTE: The purpose of this partial republication is to include the State of California as a destination point. The rest of the application remains the same.

No. MC 112822 (Sub-No. 237 TA), filed July 31, 1972. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Joe W. Ballard, Manager of Authorities, 1401 North Little Street, Cushing, OK 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Malt beverages and beer and related advertising materials*, from Pueblo, Colo., to Rawlins, Rock Springs, Laramie, Cheyenne, Casper, Sheridan, and Worland, Wyo., for 180 days. Supporting shipper: The Walter Brewing Co., Peter J. Berta, Assistant Secretary, Post Office Box 236, Pueblo, CO 81002. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240 Old Post Office Building, Oklahoma City, Okla. 73102.

No. MC 12963 (Sub-No. 28 TA), filed July 31, 1972. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Applicant's representative: Leonard E. Murphy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed ingredients*, dry, in bulk, in tank vehicles, from ports of entry in New York at the United States-Canada border to Woburn, Mass., for 180 days. Supporting shipper: Lipton Pet Foods, Inc., Box 89, 209 New Boston Street, Woburn, Mass. 01801. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John Fitzgerald Kennedy Federal Building, Government Center, Boston, Mass. 02203.

No. MC 114552 (Sub-No. 63 TA), filed July 28, 1972. Applicant: SENN TRUCKING COMPANY, Post Office Box 333, Newberry, SC 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood and composition board*, from points in Greenwood County, S.C., to points in Georgia, North Carolina, and Virginia, for 180 days. Supporting shipper: International Paper Co., Post Office Box 2328, Mobile, AL 36601. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 114840 (Sub-No. 11 TA), filed August 1, 1972. Applicant: EUGENE EBY, GLENN EBY, AND WAYNE EBY, doing business as EBY BROTHERS, Route 2, Ada County, Boise, Idaho 83702. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, lumber products, particle board and poles*, from (a) points in Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union, and Wallowa Counties, Oreg.; and (b) points in Idaho; (2) *precast and*

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

prestressed concrete and stone products, from points in Ada County, Idaho, to points in Baker, Grant, Harney, Malheur, Umatilla, Union, and Wallowa Counties, Oreg., and points in Nevada; and (3) *stone and clay products*, from points in Ada County, Idaho, to points in Baker, Grant, Harney, Malheur, Umatilla, Union, and Wallowa Counties, Oreg., and points in Nevada; for 180 days. Supporting shippers: Chandler Supply Co., Box 2840, Boise, ID 83701; Evans Lumber Co., 521 East Third Street, Meridian, ID; Ready-To-Pour Concrete Co., Box 8388, Boise, ID 83707; Northwest Stone Co., 108 East 40th, Boise, ID 83704. Send protests to: C. W. Campbell, Interstate Commerce Commission, Bureau of Operations, 550 West Fort, Box 07, Boise, ID 83702.

No. MC 114840 (Sub-No. 12 TA), filed August 1, 1972. Applicant: EUGENE EBY, GLENN EBY, AND WAYNE EBY, doing business as EBY BROTHERS, Route 2, Ada County, Boise, Idaho 83702. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated steel pipe and steel storage tanks*, from points in Ada County, Idaho to points in Baker, Grant, Harney, Malheur, Umatilla, Union, and Wallowa Counties, Oreg., for 180 days. Supporting shipper: Beall Pipe and Tank Corp., Post Office Box 7907, Boise, ID 83707. Send protests to: C. W. Campbell, Interstate Commerce Commission, Bureau of Operations, 550 West Fort, Box 07, Boise, ID 83702.

No. MC 119567 (Sub-No. 12 TA) (Correction), filed July 7, 1972, published in the FEDERAL REGISTER issue of July 28, 1972, corrected and republished in part as corrected this issue. Applicant: F. H. McCLURE AND R. V. ESTELL, doing business as EMPIRE TRANSPORT, 2007 Overland, Boise, ID 83705. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83701. NOTE: The purpose of this partial republication is to show the correct spelling of the commodity description in part 1 above as pozzolan, in lieu of pollolan, shown erroneously in previous publication. The rest of the application remains the same.

No. MC 123392 (Sub-No. 42 TA), filed August 1, 1972. Applicant: JACK B. KELLEY, INC., U.S. 66 West at Kelley Drive, Amarillo, Tex. 79106. Applicant's representative: Weldon M. Teague (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrogen*, in bulk, from La Porte, Tex. to Oklahoma City, Okla., for 180 days. Supporting shipper: S. F. Burke, Manager, Traffic Services, Air Products and Chemicals, Inc., Post Office Box 538, Allentown, Pa. 18105. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, TX 79101.

No. MC 127625 (Sub-No. 13 TA), filed July 31, 1972. Applicant: SANTEE CEMENT CARRIERS, INC., Post Office Box 638, Holly Hill, SC 29059. Applicant's representative: Frank B. Hand, Jr., 740 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood* from the plant of Holly Hill Lumber Co. at Holly Hill, S.C., to points in North Carolina, Georgia, Florida, and Tennessee, for 180 days. Supporting shipper: Holly Hill Lumber Co., Holly Hill, S.C. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 129870 (Sub-No. 8 TA), filed August 1, 1972. Applicant: GAS INCORPORATED, 95 East Merrimack Street, Lowell, MA 01853. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid methane* in bulk, in tank vehicles, from Hackensack, N.J., to points in Massachusetts, and Connecticut, for 180 days. Supporting shipper: New England LNG Co., 95 East Merrimack Street, Lowell, MA 01853. Send protests to: James F. Martin, Jr., Asst. Reg. Dir., Interstate Commerce Commission, JFK Federal Building, Bureau of Operation, Government Center, Boston, Mass. 02203.

No. MC 135088 (Sub-No. 2 TA) (Amendment), filed July 19, 1972, published in the FEDERAL REGISTER issue of July 26, 1972, amended and republished as amended this issue. Applicant: STREETER MOVING & STORAGE CO., INC., 1051 Market Road, Columbia, SC 29201. Applicant's representative: Weston Adams, 403 Security Federal Building, Post Office Box 722, Columbia, SC 29202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, and *unaccompanied baggage and personal effects*, between points in North Carolina and points in South Carolina and points in South Carolina and points in North Carolina, for 180 days. Restriction: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, except as to the unaccompanied baggage and personal effects, beyond the points authorized, said operations are restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: Applicant states it does intend to tack with the authority in MC 135088. Supporting shippers: Smythe Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, WA 98133; Department of the Army, Headquarters, Military Traffic Management & Terminal Service, Washington, D.C. 20315; Asiatic Forwarders, Inc., 335 Valencia Street, San Francisco, CA 94103; HC&D Moving and Storage Co., Inc., 321 Valencia Street, San Francisco, CA 94103. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201. NOTE: The purpose of this republication is to redescribe the territorial scope.

No. MC 135874 (Sub-No. 12 TA), filed August 1, 1972. Applicant: LTL PERISHABLES, INC., 132d and "Q" Streets, mailing: Post Office Box 37468, ZIP 68152, Omaha, NE 68137. Applicant's representative: Marshall D. Becker, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal casings* from Rockport, Mo., to Chicago, Ill., for 180 days. Supporting shipper: Victor Strings, Inc., 5115 South Millard Avenue, Chicago, IL. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 711 Federal Office Building, 106 South 15th Street, Omaha, NE 68102.

No. MC 136214 (Sub-No. 2 TA), filed July 31, 1972. Applicant: ROGER L. JACOBSON, doing business as COLUMBUS MATERIALS, 120 South Gollob, Tucson, AZ 85710. Applicant's representative: Edwin E. Piper, Jr., 715 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds* (except liquid feeds in bulk), from points in Arizona, Colorado, New Mexico, and Texas, to points in Kansas, with the operations authorized to be performed under a continuing contract or contracts with Billstone Feed & Grain Service, Inc., El Paso, Tex., for 180 days. Supporting shipper: Billstone Feed & Grain Service, Inc., Post Office Box 12335, El Paso, TX 79912. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 136867 (Sub-No. 1 TA) (Correction), filed July 10, 1972, published in the FEDERAL REGISTER issue of July 28, 1972, corrected and republished in part as corrected this issue. Applicant: C. H. SIMPSON, Route 4, Waycross, GA 31501. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. NOTE: The purpose of this partial republication is to include Georgia as a destination State, which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 136872 (Sub-No. 1 TA) (Correction), filed July 17, 1972, published in the FEDERAL REGISTER issue of August 4, 1972, corrected and republished as corrected this issue. Applicant: MOBILE HOME SERVICE CENTER OF VIRGINIA, INC., Post Office Box 13227,

1110 South Military Highway, Chesapeake, VA 23320. Applicant's representative: Blair P. Wakefield, Suite 1001, First & Merchant National Bank Building, Norfolk, Va. 23510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobiles (travel trailers, mini-campers and coaches), *and pickup campers*, from Virginia Beach, Va., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia; (2) *trailers* designed to be drawn by passenger automobiles (mobile homes) *and double wide mobile homes and/or sectional homes*, between points in Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; also from Cassopolis, Mich.; to points in Illinois, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin; also from Emporia, Kans., to points in Oklahoma, Arkansas, Missouri, Iowa, Illinois, Nebraska, Colorado, North Dakota, South Dakota, and Minnesota; (3) *modular homes and prefabricated buildings*, between points in Arkansas, Kansas, Missouri, and Oklahoma; also, from Ardmore, Tenn., to points in Arkansas; and (4) *modular homes and prefabricated buildings, portable schools, portable banks, portable office units, and sections and boats*, between points east of the Mississippi River, for 180 days. Supported by: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10–502 Federal Building, Richmond, Va. 23240. NOTE: The purpose of this republication is to include in part 1 above South Carolina as a destination point; and to include Cassapolis, Mich., as the territorial description; and to set forth the correct commodity description in (3) above to read *modular homes*, in lieu of mobile homes.

No. MC 136934 TA, filed August 1, 1972. Applicant: MALCOLM L. LEGGITT, 2301 Appletree Lane, Lawrenceville, IL 62439. Applicant's representative: Thomas A. Graham, Suite 1620, 10 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated plastic drainage tubing*, from Lawrenceville, Ill., to points in Missouri, Kansas, Arkansas, Kentucky, Tennessee, Indiana, Ohio, Michigan, Pennsylvania, New York, Minnesota, Iowa and Wisconsin; and (2) *plastic coupling T's, reducers, end caps, adapters, elbows, and corrugated plastic drainage tubing*, from points in the above destination States, to Lawrenceville, Ill., for 180 days. Supporting shipper: H. Michael C. Day, Certain-Teed Daymond Co., Valley Forge, Pa. 19481. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-14274 Filed 8-22-72;8:52 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

AUGUST 18, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Georgia Docket No. 4689–M, filed August 11, 1972. Applicant: PALMER MOTOR EXPRESS, INC., Post Office Box 103, Savannah, GA 31402. Applicant's representative: Guy H. Postell and Frank D. Hall, Suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30326. Application for Class "A" Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except those of unusual value, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading), between Savannah and Cobbtown via Interstate Highway 16, State Highway 30, U.S. Highway 280, State Highway 292 and State Highway 121, serving the intermediate and off-route points of Pembroke, Daisy, Claxton, Colling, Bellville, Hagan, and Fort Stewart; also application for corresponding authority to conduct operation in interstate and foreign commerce under section 206(a)(6) of the Interstate Commerce Act, as amended. Both intrastate and interstate authority sought.

HEARING: 10 a.m., September 26, 1972, at 177 State Office Building, 244 Washington Street SW., Atlanta, GA 30334. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Georgia Public Service Commission, 244 Washington Street SW., Atlanta, GA 30334 and should not be directed to the Interstate Commerce Commission.

Georgia Docket No. 4690–M, filed August 11, 1972. Applicant: PALMER MOTOR EXPRESS, INC., Post Office Box 103, Savannah, GA 31402. Applicant's representatives: Guy H. Postell and Frank D. Hall, Suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30326. Application for Class "A" certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except those of unusual value, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading), between Savannah and Soperton via U.S. Highway 17, U.S. Highway 82, State Highways 119, 114, and 23, U.S. Highway 280, and State Highways 15 and 29, serving the intermediate and off-route points of Riceboro, Midway, McIntosh, Hinesville, Glenville, Reidsville, Lyons, Vidalia, Tarrytown, Cobbtown; also application for corresponding authority to conduct operation in interstate and foreign commerce under section 206(a)(6) of the Interstate Commerce Act, as amended. Both intrastate and interstate authority sought.

HEARING: 10 a.m., September 26, 1972, at 177 State Office Building, 244 Washington Street SW., Atlanta, GA 30334. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Georgia Public Service Commission, 244 Washington Street SW., Atlanta, GA 30334 and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 29362 (Sub-No. 1), filed August 2, 1972. Applicant: WESTERN MOTOR FREIGHT, INC., 1430 West Sheridan, Oklahoma City, OK 73106. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23d Street (Post Office Box 75124), Oklahoma City, OK 73107. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, between Oklahoma City, Okla., to Fort Sill and Lawton, Okla., serving no intermediate points, from Oklahoma City, Okla., over U.S. Highway 62 to its intersection with H. E. Bailey Turnpike, thence over H. E. Bailey Turnpike to Fort Sill and Lawton, Okla., and return over the same route. Both intrastate and interstate authority sought.

HEARING: September 11, 1972, at 9 o'clock a.m., before the Oklahoma Corporation Commission, Jim Thorpe Office Building, Third Floor, Oklahoma City, Okla. 73105. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Third Floor, Oklahoma

City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 16,318, filed July 26, 1972. Applicant: GREENWOOD MOTOR LINES, Post Office Drawer 336, Greenwood, SC 29646. Applicant's representative: Howard L. Burns, Post Office Box 1207, Greenwood, SC 29646. Amend Class E Certificate No. 63–B by adding thereto the following: Between points and places in Spartanburg County for purposes of joinder and interchange only, and between points and places in Spartanburg County for purposes of joinder and interchange only and points and places in South Carolina. Amendment to read as follows: Over irregular routes: *Commodities in general* (except petroleum products in bulk in tank trucks; classes A and B explosives and classes A, C, and D poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., Agent, Tariff No. 10, MF–ICC No. 11, PSCSC No. 11, Supplements thereto or reissues thereof: And household goods and related articles as defined in Motor Truck Rate Bureau, Agent, Household Goods Tariff, Motor Freight Tariff No. 8–D, SCPSC–MF No. 79, Supplements thereto or reissues thereof): Between points and places in Greenville and Pickens Counties and points and places in South Carolina, and between points and places in Spartanburg County for purposes of joinder and interchange only, and between points and places in Spartanburg County for purposes of joinder and interchange only and points and places in South Carolina. Both intrastate and interstate authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State of South Carolina, The Public Service Commission, Post Office Drawer 11649, Columbia, SC 29211 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-14271 Filed 8-22-72;8:51 am]

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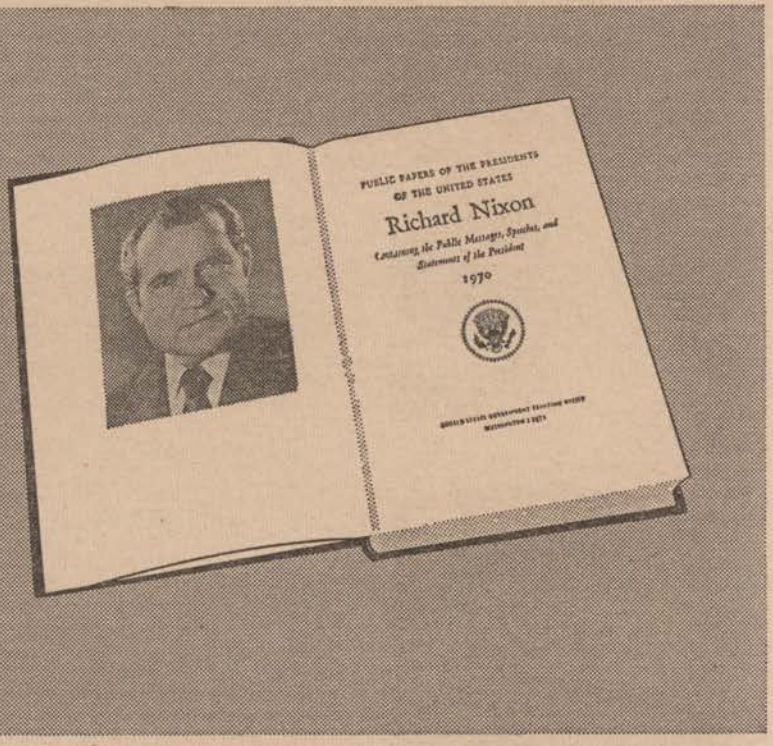

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