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PART I

(Part II begins on page 18261)

(Part III begins on page 18271)

HIGHLIGHTS OF THIS ISSUE

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

(Continued inside)

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Contents

(Continued on next page)

List of CFR Parts Affected

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

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

6 CFR

Rulings (5 documents)... 18179, 18180

7 CFR

931... 18181
1475... 18181

PROPOSED RULES:

726... 18218
1065... 18203
1106... 18216
1701 (2 documents)... 18222

9 CFR

76... 18182

12 CFR

PROPOSED RULES:

741... 18202

14 CFR

71 (3 documents)... 18182, 18183
73... 18184
75... 18184

16 CFR

13 (9 documents)... 18184, 18185, 18187–18191

18 CFR

1... 18192
2... 18192
3... 18192

19 CFR

16... 18193

21 CFR

19... 18193
37... 18193
121... 18195

22 CFR

201... 18192

25 CFR

232... 18195

29 CFR

1910... 18196

40 CFR

85... 18262

41 CFR

3–7... 18192

47 CFR

83... 18196

PROPOSED RULES:

2... 18201
25... 18201
73 (2 documents)... 18201

50 CFR

32 (9 documents)... 18197–18200

Rules and Regulations

Title 6—ECONOMIC STABLIZATION

Rulings—Internal Revenue Service, Department of the Treasury

[Price Commission Ruling 1972–234]

INCREASE ALLOWED WHEN TAX PAID

Price Commission Ruling

Facts. A leases apartments in a multi-family structure on a month-to-month basis. Property taxes on the property in 1971 were $500, but the tax rate has been increased this year, and A has just received a tax bill for $750. The bill is payable on October 1, 1972, and begins to accrue interest as of that date. On July 30, 1972, A paid the first installment of the tax and mailed notices to tenants which complied with 6 CFR 301.301, calling for a rent increase effective September 1 to offset the $250 increase in his tax bill.

Issue. May an increase in "allowable costs" justify an increase in rent prior to the date upon which the payor becomes subject to interest or penalty charges?

Ruling. Rent may be increased pursuant to Part 301 as of the date the payor pays the tax, even though he pays it before he becomes subject to interest or penalty.

Economic stabilization regulations effective July 5, 1972, provide that increases in allowable costs (which include property tax increases) may justify an increase in rent beginning with the first rent payment interval after December 28, 1971, but that no rent may be increased for that reason until the first installment of the allowable cost reflecting the increase is payable or has been paid, whichever is earlier; an allowable cost is considered "payable" on the date the payor becomes subject to the imposition of interest or penalty on any unpaid portion of the tax or charge. § 301.101 (a)(2), 37 F.R. 13226 (1972).

Since A paid the tax reflecting the increase prior to its payable date, he may increase rents as of the payment date, which is the earlier of the two dates specified by the regulations.

Price Commission Rulings 1972–98, 37 F.R. 5065 (1972) and 1972–189, 37 F.R. 12164 (1972), which provide inter alia that a lessor may not increase rent based on an allowable cost increase until the charge reflecting the increase is "payable," are applicable only to transactions occurring before July 5, 1972, the effective date of new regulations under Part 301 of Title 6.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 1, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved:

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–15282 Filed 9–7–72;8:52 am]

[Price Commission Ruling 1972–235]

NOTICE REQUIREMENTS AND RETROACTIVITY RELATING TO VACANCY DECONTROLLED UNITS

Price Commission Ruling

Facts. X, a landlord, owns a large apartment complex in New York City. The rents of these residences are controlled by the city of New York. One such apartment was rented to tenant Y on August 20, 1971, for a year term. Three months later, X entered into a 1-year lease with tenant Z. X put a clause in this lease stating "if the new rent regulations allow a higher rent, your rent will be elevated to that new amount."

On February 23, 1972, Economic Stabilization Regulation, 6 CFR 301.106(e) (1972) was promulgated. This section allowed landlords under vacancy decontrol the right to recompute their base rent provided a transaction was entered into after August 14, 1971. X pursuant to the contract clause wants to raise Z's rent on June 20, 1972, retroactively to February 23, 1972. X also wants to raise Y's rent at the end of the lease on August 15, 1972, retroactively to February 23, 1972.

Issue. (A) Would such rental increases be allowable retroactively to February 23, 1972, for Y and Z?

(B) Must a 30-day notice be given to Y and Z?

Ruling. (A) Regulation § 301.106(e) and new Economic Stabilization Regulation, § 301.205, 37 F.R. 13226 (1972) effect the same result. X cannot recoup any extra rent for any period before June 20, 1972, for Z or before August 20, 1972, for Y. The section is silent as to any retroactivity and thus it must be assumed that such an outcome is not allowed. The only area in the regulations which allow retroactive application is Economic Stabilization Regulation, 6 CFR 301.102 (b)(5) and new regulation § 301.101(a)(2)(v), 37 F.R. 13226 (1972). From this one can surmise any retroactivity must be stated in the language of the section.

(B) Y must be given notice 30 days prior to August 20, 1972, in order that rent be recomputed. New Economic Stabilization Regulation, § 301.301(a), 37 F.R. 13226 (1972) states "* * * no person may charge, offer to charge, or give notice of intent to charge, an increase in rent payment interval * * * above that charged or chargeable for the rent payment interval immediately preceding the effective date of the increase unless he has complied with this subpart." Paragraph (b) of § 301.301 requires at least 30 days notice before an increase in rent is to become effective.

Y does not have to give Z a 30-day notice. Economic Stabilization Regulation, 6 CFR 301.501 (1972) states, "no person may increase rent, with respect to any transaction after December 28, 1971 * * *." Economic Stabilization Regulation, 6 CFR 301.2 (1972) defines a transaction "to occur at the time and place a lease or covenant to lease is executed by the parties, is created by implication, or an implied contract of occupancy comes into being." Since the lease was entered into prior to December 28, 1971, no notice must be given when base rent is recomputed under Economic Stabilization Regulation, 6 CFR 301.106(e) (1972). If the same contract between X and Z had been entered into after December 28, 1971, the 30-day notice is necessary since the transaction fell after December 28, 1971.

This ruling differs from Price Commission Ruling 1972–163, 37 F.R. 9407 (1972). That ruling related to the recomputation of a monthly rent under a formula rental lease. The recomputation was considered a transaction for the purposes of limiting any increase to an amount not greater than the rent adjustments found in Subpart B. In our situation this transaction is not inferred since the necessity for the limitation caused by Subpart B is inapplicable.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: August 31, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: August 31, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–15283 Filed 9–7–72;8:52 am]

[Price Commission Ruling 1972–236; Cost of Living Council Ruling 1972–111]

REDUCTION IN SERVICE AS A PRICE INCREASE

Price Commission Ruling; Cost of Living Council Ruling

Facts. Citizen is a liquor wholesaler in Nebraska prior to January 1, 1972. Citizen delivered to retailers at no charge.

Last fall the attorney general of the State of Nebraska issued a ruling that effective January 1, 1972, liquor wholesalers would no longer deliver liquor. The retailer now must either pick up the purchases or pay an independent hauler a delivery charge. Citizen has not changed his price. The result is that the retailers costs have gone up due to the fact he is paying the same price for his purchases plus a delivery charge. The State of Nebraska does not control liquor prices.

Issue. Is the reduction in service by Citizen, unaccompanied by a corresponding reduction in price, a price increase for the purpose of the Economic Stabilization Regulation, 6 CFR 300.13 (1972)?

Ruling. Yes. The Cost of Living Council has defined "price adjustment" as "an increase in the unit price of property or services or a decrease in the quality of substantially the same property or services" 6 CFR 101.2 (1972). Since an integral part of the transaction, delivery of the liquor, has been discontinued, a decrease in quality of the property or service has been experienced, resulting in a price increase for undelivered liquor under the above definition.

Prior to the discontinuance of the delivery service, liquor prices were composed of 2 elements: The liquor itself and delivery. During the base period the markup (CIPM) was applied to both the cost of delivery and the cost of the liquor. Now the CIPM can be applied only to the cost of liquor.

EXAMPLE:

Charge of distiller to Citizen wholesaler	$28.00
Citizens cost of delivery to retail customer	2.00
Price charged retail customer during base period	60.00

The base period CIPM is:

$$\frac{\text{selling price}-\text{cost of liquor and trans.}}{\text{total cost}}=\frac{60-(28+2)}{28+2}=\frac{30}{30}=100 \text{ percent.}$$

If during the base period Citizen did not charge for delivery and considered his base period CIPM to be:

$$\frac{\text{sales price}-\text{cost of liquor}}{\text{cost of liquor}}=\frac{60-28}{28}=\frac{32}{28}=114 \text{ percent.}$$

he must recompute his CIPM to reflect delivery costs. The CIPM will be 100 percent, rather than 114 percent.

The base price is now determined by adding the 100 percent CIPM to $28, the cost of liquor during the freeze base period $28+(100 percent)=$56. While Citizen had a base price of $60 for liquor which included delivery to the retail customer, he now has a base price of $56 for undelivered liquor.

This ruling has been approved by the General Counsels of the Price Commission and the Cost of Living Council.

Dated: September 1, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel.

Approved: September 1, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-15284 Filed 9-7-72;8:52 am]

[Price Commission Ruling 1972-237]

DISCONTINUANCE OF TRADING STAMPS AS A PRICE INCREASE

Price Commission Ruling

Facts. Store A had customarily given trading stamps to its customers in relation to the dollar amount of the purchase. This practice existed during the freeze base period and the markup base period. Store A now discontinues its trading stamp program.

Issue. Is the discontinuance of trading stamps a price increase?

Ruling. Yes. The Cost of Living Council has defined a price adjustment as "an increase in the unit price of property or services or a decrease in the quality of substantially the same property or services" 6 CFR 101.2 (1972). Since Store A has discontinued trading stamps for the purpose of the stabilization regulations it has increased the price of all the products with which trading stamps were included. Whether Store A will be required to reduce the prices of its products will depend on a recomputation of its base prices under 6 CFR 300.405(a) (1972), and possibly a recomputation of its customary initial percentage markup under 6 CFR 300.5 (1972).

During the freeze base period, Store A established a base price for a product including trading stamps. Actually one base price was established for two products. Upon discontinuance of trading stamps, Store A not only made a price adjustment as described above, but also changed the final product sold. Section 300.405(a) establishes base prices for sales of personal property or services during the freeze base period. Since the personal property has been reduced by the elimination of trading stamps, the base price of the property must also be reduced by the cost of the trading stamps plus the markup applied by Store A to the final product. For example, assume the cost of a product plus transportation was 98 cents, the cost of the trading stamps included was 2 cents, and the base price of the final product was $2. Store's CIPM is:

$$\frac{\text{Sales price}-\text{cost of product}-\text{cost of trading stamps}}{\text{Cost of product and cost of stamps}}=\frac{2.00-0.98-0.02}{100}=100 \text{ percent.}$$

When the stamps are eliminated, the base price for the product is $1.96. Unless Store A has experienced product or transportation cost increases, $1.96 is the ceiling price for this product.

If Store A had previously considered its markup to be:

$$\frac{\text{Sales price}-\text{cost of product}}{\text{Cost of product}}=\frac{200-0.98}{0.98}=104 \text{ percent,}$$

it must now recompute its CIPM using the cost of the trading stamps in its computation. Store's CIPM will have been 100 percent rather than 104 percent.

Upon discontinuance of trading stamps, Store may now add its 100 percent markup to the cost of goods plus transportation. In this case, the maximum price permitted is $1.96 (0.98+100 percent markup).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 1, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 1, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-15285 Filed 9-7-72;8:52 am]

[Price Commission Ruling 1972-238; Cost of Living Council Ruling 1972-112]

EXCISE AND SALES TAXES

Price Commission Ruling; Cost of Living Council Ruling

Facts. Firm A is a manufacturer and retail distributor of distilled spirits. It costs Firm A $10.50 per gallon to produce its product. The Federal Government has imposed an excise tax "on all distilled spirits in bond or produced in * * * the United States * * *" of $10.50 per gallon (section 5001 of title 26 United States Code). Firm A pays this tax and sells his product for $25.20 per gallon which includes a mark-up of $4.20 per gallon. In a particular fiscal year Firm A produced 5 million gallons of spirits. Its retailing division sold the entire output and collected $26.46 per gallon from customers which included a 5-percent State sales tax which Firm A collected and turned over to the State.

Issue. What moneys collected by Firm A does it use in calculating its price category (tier status) and its profit margin?

Ruling. A firm having annual sales or revenues from whatever source derived (with certain exceptions not relevant to this question) of $100 million or more during its most recent fiscal year is a Tier I firm. Economic Stabilization Regulations, 6 CFR 101.11 (1972). Firm A collected a total of $132,300,000 (5 million gallons × $26.46 per gallon) from customers which covered the following costs:

Production costs	$52,500,000
Mark-Up sales	21,000,000
Excise taxes	52,500,000
Total	126,000,000
5 percent sales tax	6,300,000
	132,300,000

The sales tax is a tax imposed on the customer based on retail selling price which is collected by Firm A. The State requires Firm A to collect the tax and to turn it over to the State. An increase in the State sales tax rate could not be used as an allowable cost by Firm A to justify a price increase. State sales taxes collected under an agency arrangement would not be part of Firm A's annual sales or revenues nor would it enter the profit margin calculation of the firm. Cost of Living Council Ruling 1972–89, 37 F.R. 15011 (1972).

The remaining $126 million would be used by Firm A to calculate its tier status and would enter his profit margin calculation. The excise tax is imposed on the production of distilled spirits whether the product is ever sold or not. It is a cost of doing business. It is not a tax imposed directly upon the consumer. An increase in the amount of the excise tax would be an increase in allowable cost and could be used to justify a price increase. Price Commission Ruling 1972–127, 37 F.R. 7351 (1972).

Firm A is a Tier I firm with annual sales or revenues of $126 million which amount would also be used in calculating its profit margin. Price Commission Ruling 1972–19, 37 F.R. 766 (1972).

This ruling has been approved by the General Counsels of the Price Commission and the Cost of Living Council.

Dated: September 5, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 5, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-15286 Filed 9-7-72;8:52 am]

Title 7—AGRICULTURE

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

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Expenses; Rate of Assessment; Carryover of Unexpended Funds

On August 22, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16877) regarding proposed expenses and the related rate of assessment for the fiscal period July 1, 1972, through June 30, 1973, and approval of carryover of unexpended funds from the fiscal period ended June 30, 1972, pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. This notice allowed interested persons 10 days during which they could submit written data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Northwest Fresh Bartlett Pear Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 931.207 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee during the fiscal period July 1, 1972, through June 30, 1973, will amount to $15,250.

(b) *Rate of assessment.* The rate for said period, payable by each handler in accordance with § 931.41, is fixed at $0.005 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended June 30, 1972, be carried over as a reserve in accordance with the applicable provisions of § 931.42 of said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of Bartlett pears grown in Oregon and Washington are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable pears handled during the aforesaid period; and (3) such period began on July 1, 1972, and said rate of assessment will automatically apply to all such pears beginning with such date.

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

Dated: September 5, 1972.

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

[FR Doc.72-15292 Filed 9-7-72;8:53 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Rev. 3, Amdt. 9]

PART 1475—EMERGENCY FEED PROGRAM

Subpart—Livestock Feed Program

ELIGIBILITY PROVISIONS; APPLICATION AND APPROVAL; DISPOSITION OF GRAIN AND ADJUSTMENT OF SALES PRICE

The regulations issued by the Commodity Credit Corporation published by 29 F.R. 13475, 30 F.R. 2854, 6909, 31 F.R. 13532, 32 F.R. 14372, 34 F.R. 14206, 36 F.R. 9497, and 37 F.R. 7149, 13635, which contain specific requirements for the Livestock Feed Program are further amended to clarify eligibility requirements in § 1475.204(b), application and approval in § 1475.205(d)(2) and delete (d)(3), and disposition of grain and adjustment of sales price in § 1475.212(a) and delete (b) and (c). Since these changes are urgently needed in emergency areas and since the amendment lessens the restrictions on program participation by livestock owners in recently designated areas, it is hereby determined that compliance with the notice of proposed rulemaking procedures is impracticable and contrary to the public interest with respect to this amendment. Accordingly, §§ 1475.205(d)(3), and 1475.212(b) and (c) are deleted and paragraph (b) of § 1475.204, paragraph (d)(2) of § 1475.205, and paragraph (a) of § 1475.212 are amended as follows:

§ 1475.204 Eligibility provisions.

* * * * *

(b) At the time the owner applies for feed grain he does not have, and is unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for the livestock owned by him. Undue financial hardship shall be determined to exist upon determination by the approving officials that, if participation in the program is denied, the emergency will cause the owner to borrow funds or utilize financial reserves to a degree substantially greater than customary to meet unexpected farming

contingencies. In making this determination, those applicants who are considered to be wealthy shall be excluded. Approving officials shall give close scrutiny to applicants who locally are regarded as being wealthy, having large financial reserves, or as having substantial nonfarm sources of income. If the approving officials are uncertain as to whether the applicant meets the eligibility requirements, they may request such factual information as will permit them to make a determination. If the applicant is a partnership, the resources of the partnership and all of the partners must be taken into consideration in determining the eligibility of the partnership to receive assistance. If the applicant is a family corporation, the resources of such corporation and of the individuals who together with the corporation are considered as a person under § 1475.203(i) must be taken into consideration in determining the eligibility of the family corporation to receive assistance.

* * * * *

§ 1475.205 Application and approval.

* * * * *

(d) * * *

(2) The feed grain allowance for the authorized period shall not exceed the smaller of (i) 10 pounds per day per animal unit (or whatever lesser quantity is established by the State committee or county committee), times the number of days in the authorized period less the total quantity (taking into consideration quality) of feed grain equivalent of the feed determined by the approving officials to be available to the owner for feeding his eligible livestock during the authorized period, or (ii) the estimated normal production of the owner's feed grain and its equivalent (hay, roughage, etc.). Notwithstanding the foregoing, the approving officials may further adjust the feed allowance upward or downward; however, in no case can the allowance exceed the calculated amount in subdivision (i) of this subparagraph.

(3) [Deleted]

* * * * *

§ 1475.212 Disposition of grain and adjustment of sales price.

(a) *Feed for livestock.* A total quantity of feed equal in feed equivalents to the quantity purchased must be fed to the owner's eligible livestock within the prescribed period.

(b) [Deleted]

(c) [Deleted]

* * * * *

(Secs. 1–4, 73 Stat. 574, as amended; secs. 407, 421 63 Stat. 1055, as amended; secs. 4, 5, 62 Stat. 1070, as amended; 7 U.S.C. 1427, 1427 note, 1433; 15 U.S.C. 714 b, c)

Effective date: Upon publication in the FEDERAL REGISTER (9–8–72).

Signed at Washington, D.C., on September 1, 1972.

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

[FR Doc.72–15294 Filed 9–7–72;8:54 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72–545]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, a new paragraph (e)(9) relating to the State of Indiana is added to read:

(e) * * *

(9) *Indiana.* (i) All of Big Creek Township in White County.

(ii) That portion of White County bounded by a line beginning at the junction of State Highway 16 and the White-Jasper County line; thence, following the White-Jasper County line in a northerly then easterly direction to the junction of the White-Jasper-Pulaski County lines; thence, following the White-Pulaski County line in an easterly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a southerly direction to State Highway 16; thence, following State Highway 16 in a westerly direction to its junction with the White-Jasper County line.

2. In § 76.2, a new paragraph (e)(10) relating to the Commonwealth of Puerto Rico is added to read:

(e) * * *

(10) *Puerto Rico.* The entire Commonwealth.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine the entire Commonwealth of Puerto Rico and portions of White County in the State of Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this first day of September 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–15295 Filed 9–7–72;8:53 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72–SW–47]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Corsicana, Tex., transition area.

On July 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 14318) stating the Federal Aviation Administration proposed to designate a transition area at Corsicana, Tex.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 9, 1972, as hereinafter set forth.

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

CORSICANA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Corsicana Municipal Airport (latitude 32°02'00" N., longitude 96°24'00" W.) and within 3 miles each side of the Scurry, Tex., VORTAC 186° radial extending from the 5-mile radius area to 24 miles south of the VORTAC.

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

Issued in Fort Worth, Tex., on August 29, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-15256 Filed 9-7-72;8:50 am]

[Airspace Docket No. 72-SW-46]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the controlled airspace in the Muskogee, Okla., terminal area.

On July 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 14319) stating the Federal Aviation Administration proposed to alter the Muskogee, Okla., 700-foot transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 9, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Muskogee, Okla., transition area is amended to read:

MUSKOGEE, OKLA.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Davis Field, Muskogee, Okla. (latitude 35°39'25" N., longitude 95°21'40" W.), and within 10 miles southwest and 5 miles northeast of the Muskogee VOR 137° radial extending from the VOR to 20 miles southeast.

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

Issued in Fort Worth Tex., on August 29, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-15255 Filed 9-7-72;8:50 am]

[Airspace Docket No. 71-EA-167]

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

Designation of Transition Area; Correction

On August 24, 1972, F.R. Doc. 72-14368 was published in the FEDERAL REGISTER (37 F.R. 17025) which amends Part 71 of the Federal Aviation Regulations, effective 0901 G.m.t., October 12, 1972, by designating the South Island, N.Y., transition area. Four related nonregulatory actions were also included in the material published. Inaccurate information in the text and printing errors were noted after publication. Therefore, action is taken herein to correct all the information involved.

Since this amendment is minor in nature with no substantive change in the regulations, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30-days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (9-8-72), F.R. Doc. 72-14368 (37 F.R. 17025) is amended as hereinafter set forth.

All material after "In § 71.181 (37 F.R. 2143) the South Island, N.Y., transition area is added:" is deleted and the following is substituted therefor.

SOUTH ISLAND, N.Y.

That airspace on each side of Control 1147, extending upward from FL 230 to FL 390, inclusive, bounded on the northeast by a line beginning at latitude 40°00'00" N., longitude 72°43'00" W., to latitude 39°35'00" N., longitude 72°20'00" W., thence south along longitude 72°20'00" W., to the northeast boundary of Control 1147, northwest along the northeast boundary of Control 1147, northeast along the southeast boundary of the Fire Island transition area to latitude 40°03'00" N., thence to point of beginning; and including the airspace bounded on the southwest by a line beginning at latitude 39°44'00" N., longitude 73°30'00" W., thence east along latitude 39°44'00" N., to the southwest boundary of Control 1147, southeast along the southwest boundary of Control 1147, southwest along the northwest boundary of the New York oceanic control area to longitude 72°30'00" W., thence to latitude 39°40'00" N., longitude 73°30'00" W., thence to point of beginning.

Nonrule making actions are taken as hereinafter set forth and are effective 0901 G.m.t., October 12, 1972.

1. Warning Area W-105 is redefined as follows:

W-105 NARRAGANSETT, R.I.

Boundaries: Beginning at lat. 40°40'00" N., long. 72°30'00" W.; thence to lat. 40°41'30" N., long. 72°07'00" W.; thence to lat. 41°09'-30" N., long. 70°13'00" W.; thence to lat. 39°-52'00" N., long. 69°34'00" W.; thence to lat. 39°52'00" N., long. 71°01'30" W.; thence to lat. 39°07'00" N., long. 71°53'00" W.; thence to lat. 39°34'00" N., long. 72°30'00" W.; to point of beginning excluding the airspace extending upward from 8,000 feet MSL in the area bounded by a line beginning at lat. 40°40'00" N., long. 72°30'00" W.; thence to lat. 40°41'15" N., long. 72°11'00" W.; thence to lat. 40°25'35" N., long. 72°30'00" W.; thence to point of beginning.

Altitude: Surface to flight level 500, excluding the airspace from flight level 240 to flight level 300 inclusive within a 10.2-mile radius of the Nantucket radio beacon (41°16'07"/70°10'49"), and excluding the airspace from flight level 230 to flight level 390 inclusive within the South Island, N.Y., transition area.

Using Agency: Commanding Officer, Naval Station (NAVPORCO) Newport, R.I.

Time of Use: Monday through Friday, 0800-1800 local time; Saturday-Sunday, 0800-1200 local time.

2. Warning Area W-106 is redefined as follows:

W-106 PATCHOGUE, N.Y.

Boundaries: Beginning at lat. 40°40'00" N., long. 72°30'00" W.; thence to lat. 39°34'-00" N., long. 72°30'00" W.; thence to lat. 39°44'00" N., long. 72°43'40" W.; thence to lat. 40°13'15" N., long. 73°15'00" W.; thence to lat. 40°23'45" N., long. 73°15'00" W.; thence to lat. 40°33'10" N., long. 73°04'15" W.; to the point of beginning excluding that portion above 3,000 feet MSL within and west of V-139/V-308 and that airspace extending upward from 8,000 feet MSL within 10 NM SE of the SE boundary of V-139/V-308.

Altitude: Surface to unlimited, excluding the airspace from flight level 230 to flight level 390 inclusive within the South Island, N.Y., transition area.

Time of Use: All, 0800-1800 local time, other times by NOTAM.

Using Agency: Commanding Officer, United States Naval Station, Newport, R.I.

3. Warning Area W-107 is redefined as follows:

W-107 ATLANTIC CITY, N.J.

Boundaries: Beginning at lat. 40°00'00" N., long. 73°52'00" W.; thence to lat. 40°00'00" N., long. 73°37'00" W.; thence to lat. 38°-48'00" N., long. 72°23'00" W.; thence to lat. 38°21'00" N., long. 73°02'00" W.; thence to lat. 38°03'00" N., long. 73°02'00" W.; thence to lat. 39°09'00" N., long. 74°37'00" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 39°54'00" N., long. 74°01'00" W.; to the point of beginning excluding that portion above 2,000 feet MSL within and west of V-139/V-308 and within the area beginning at lat. 39°44'00" N., long. 73°40'15" W.; thence to lat. 39°05'10" N., long. 73°27'15" W.; thence to lat. 39°44'00" N., long. 73°19'50" W.; to the point of beginning.

Altitude: Surface to unlimited, excluding the airspace from flight level 230 to flight level 390 inclusive within the South Island, N.Y., transition area.

Time of Use: Monday through Friday, 0600 to 2400 local time, other times by NOTAM. Saturday and Sunday, Sunrise to Sunset, other times by NOTAM.

Using Agency: Commanding Officer, NAS Lakehurst, N.J.

4. Nonregulatory Jet Advisory Service Area associated with Control 1147 is redefined as follows:

Newark, N.J., RBN via Control 1147 to the New York CTA/FIR including that area northeast of Control 1147 bounded by lat. 39°58'30" N., long. 73°01'00" W.; to lat. 39°23'20" N., long. 72°20'00" W.; to lat. 39°35'00" N., long. 72°20'00" W.; to lat. 40°00'00" N., long. 72°43'00" W.; to lat. 40°03'00" N., long. 72°57'00" W.; to lat. 39°58'30" N., long. 73°01'00" W.; and that area southwest of Control 1147 bounded by lat. 39°44'00" N., long. 73°16'15" W.; to lat. 38°47'10" N., long. 72°19'30" W.; to lat. 38°40'00" N., long. 72°30'00" W.; to lat. 39°40'00" N., long. 73°30'00" W.; to lat. 39°44'00" N., long. 73°30'00" W.; to lat. 39°44'00" N., long. 73°16'15" W.

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

Issued in Washington, D.C., on September 1, 1972.

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

[FR Doc.72-15254 Filed 9-7-72;8:50 am]

[Airspace Docket No. 72-WA-42]

PART 73—SPECIAL USE AIRSPACE

Redesignation of Restricted Airspace

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to redesignate the using agency of restricted areas R-3601A and R-3601B.

The Department of the Air Force has requested that the using agency of these restricted areas be changed to the military unit charged with scheduling responsibility.

Since this amendment is minor in nature and no substantive change is effected, notice and public procedure thereon are unnecessary and good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER (9-8-72), as hereinafter set forth.

In § 73.36 (37 F.R. 2353), the Brookville, Kans., restricted areas R-3601A and R-3601B are amended by deleting the present using agency and substituting therefor:

Commander, 184 Tac Ftr Tng GP, Kansas ANG, McConnell AFB, Kansas

(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 31, 1972.

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

[FR Doc.72-15257 Filed 9-7-72;8:50 am]

[Airspace Docket No. 72-WA-48]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Area High Route; Correction

On August 23, 1972, F.R. Doc. 72-14199 was published in the FEDERAL REGISTER (37 F.R. 16935) which amends Parts 75 of the Federal Aviation Regulations, effective 0902 G.m.t., October 12, 1972, by changing the location of the first waypoint in J819R area high route. The change contained minor incorrect information. The purpose of this amendment is to correct the material involved.

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, effective upon publication in the FEDERAL REGISTER (9-8-72), F.R. Doc. 72-14199 (37 F.R. 16935) is amended as hereinafter set forth.

In J819R "Merrimack, N.H. 42°41'31''/71°24'10'' Putnam, Conn." is deleted and "Merrimack, Mass. 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 31, 1972.

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

[FR Doc.72-15258 Filed 9-7-72;8:50 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2265]

PART 13—PROHIBITED TRADE PRACTICES

CenCor, Inc., and CenCor Services, Inc.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*: 13.15-265 Service; § 13.70 *Fictitious or misleading guarantees.* Subpart—Misrepresenting oneself and goods—Business Status, Advantages or Connections; § 13.1370 *Business methods, policies, and practice;* § 13.1520 *Personnel or staff*—Goods; § 13.1725 *Refunds.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure; § 13.1905 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, CenCor, Inc., et al., Kansas City, Mo., Docket No. C-2265, Aug. 3, 1972]

In the Matter of Cencor, Inc., and CenCor, Services, Inc., Corporations

Consent order requiring, among other things, a Kansas City, Mo., company engaged in advertising and selling personal income tax preparation services to cease failing to disclose conditions of its guarantees, misrepresenting that it will reimburse customers for all payments they may be required to make over their initial tax payment, failing to disclose that respondent will not assume liability for additional taxes levied against the taxpayer, misrepresenting that legal representation will be provided to customers whose tax returns are audited, misrepresenting the magnitude or frequency of refunds received by its customers, and misrepresenting that respondent's personnel are tax experts. Respondent is further required to deliver a copy of the order and a returnable form of intention to each of its franchisees.

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

It is ordered, That respondents CenCor, Inc., and CenCor Services, Inc., corporations, and their officers, and respondents' agents, representatives, employees and successors and assigns directly or through any corporate or other device, or through their franchisees or any other person, partnership or corporation authorized by respondents to engage in the commercial preparation of income tax returns in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any guarantee without clearly and conspicuously disclosing the terms, conditions, and limitations of any such guarantee; or misrepresenting, in any manner, the terms and conditions of any guarantee.

2. Representing, directly or by implication, that respondents will reimburse their customers for all payments the customer may be required to make in addition to his initial tax payment, in instances where such additional payments result from an error by respondents in the preparation of the tax return; provided, however, nothing herein shall prevent truthful representations that respondents will reimburse their customers for interest or penalty payments resulting from respondents' errors.

3. Failing to disclose, clearly and conspicuously, whenever respondents make any representation, directly or by implication, as to their responsibility for, or obligation resulting from, errors attributable to respondents in the preparation of tax returns, that respondents will not assume the liability for additional taxes assessed against the taxpayer.

4. Representing, directly or by implication, that respondent will provide legal representation to customers whose tax returns are audited; or misrepresenting, in any manner, the type or manner of assistance provided by respondent to customers whose returns may be audited.

5. Representing, directly or by implication, that the percentage of respondents' customers who receive tax refunds is demonstrably greater than the percentage of the tax paying public at large who receive refunds; or misrepresenting, in any manner, the magnitude or frequency of refunds received by respondents' tax preparation customers.

6. Representing, directly or by implication, that respondents' tax preparation personnel are tax experts or professionals or unusually competent in the preparation of tax returns and the rendering of tax advice; or misrepresenting, in any manner, the competence or ability of respondents' tax preparation personnel.

It is further ordered, That:

(a) Respondents herein deliver, by registered mail, a copy of this decision and order to each of their present and future franchisees and any other persons, partnerships or corporations authorized by the respondents to engage in the commercial preparation of income tax returns.

(b) Respondents provide each person so described in paragraph (a) above with a form returnable to the respondents clearly stating his intention to be bound by and to conform his business practices to the requirements of this order;

(c) Respondents inform each person so described in paragraph (a) above that

the respondents shall not authorize, grant a franchise to, or continue the authorization or franchise of, any third party to engage in the commercial preparation of income tax returns, unless such third party agrees to and does file notice with the respondents that it will be bound by the provisions contained in this order;

(d) If such third party will not agree to so file notice with the respondents and be bound by the provisions of the order, the respondents shall not authorize, grant a franchise to, or continue the authorization or franchise of, such third party to engage in the commercial preparation of income tax returns;

(e) Respondents inform the persons described in paragraph (a) above that the respondents are obligated by this order to discontinue the authorization, or terminate the franchise, of persons who continue on their own the deceptive acts or practices prohibited by this order;

(f) Respondents institute a program of continuing surveillance adequate to reveal whether the business operations of each said person described in paragraph (a) above conform to the requirements of this order; and that

(g) Respondents discontinue the authorization or franchise of persons so engaged, revealed by the aforesaid program of surveillance, who continue on their own the deceptive acts or practices prohibited by this order.

It is further ordered, That the respondents herein shall, prior to January 15, 1973, send a letter to the last known address of each of its customers and the customers of its franchisees for the most recent past year, clearly and accurately explaining (1) the terms, conditions and limitations of respondent's policy regarding its responsibility for, or obligation resulting from errors attributable to respondent in the preparation of tax returns and (2) the type or manner of assistance provided by respondent to customers whose returns may be audited.

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

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of its operating divisions.

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

Issued: August 3, 1972.

By the Commission.

[SEAL] VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.72-15356 Filed 9-7-72;8:45 am]

[Docket No. 8831]

PART 13—PROHIBITED TRADE PRACTICES

Cowles Communications, Inc., et al.

Subpart—Advertising falsely or misleading: § 13.15 *Business status, advantages, or connections:* 13.15–195 Nature; 13.15–225 Personnel or staff; § 13.75 *Free goods or services;* § 13.155 Prices. Subpart—Misrepresenting oneself and goods—Business Status, Advantages, or Connections: § 13.1490 *Nature;* § 13.1520 *Personnel or staff;* § 13.1570 *Unique status or advantages;*—Goods: § 13.1675 *Law or legal requirements;*—Prices: § 13.1822 *Sales below cost;* § 12.1823 *Terms and conditions;* § 13.1825 *Usual as reduced or to be increased. Subpart*—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 *Sales contract, right-to-cancel provisions;* § 13.1905 *Terms and conditions.* Subpart—Securing signatures wrongfully: § 13.2175 *Securing signatures wrongfully.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Cowles Communications, Inc., et al., Des Moines, Iowa, Docket No. 8831, Aug. 3, 1972]

In the Matter of Cowles Communications, Inc., a Corporation; Civic Reading Club, Inc., a Corporation; Educational Book Club, Inc., a Corporation; Home Reader Service, Inc., a Corporation; Home Reference Library, Inc., a Corporation; and Mutual Readers League, Inc., a Corporation

Consent order requiring a New York City publisher and seller of books and magazines and its five magazine subscription agencies in Des Moines, Iowa, among other things, to cease misrepresenting the terms and conditions of contracts; misrepresenting the identity of solicitors or the firms they are representing; misrepresenting the savings which will be accorded or made available to purchasers; representing that any subscription contract can be canceled and failing to cancel said contract upon request; misrepresenting the nature, kind or legal characteristics of any document; misrepresenting the action or results of any action which may be taken to effect payment of alleged indebtedness. Respondents are further required to allow purchasers a 3-day cooling-off period in which they may cancel their subscription contracts.

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

It is ordered, That Cowles Communications, Inc., a corporation, and its officers, Civic Reading Club, Inc., a corporation, and its officers, Educational Book Club, Inc., a corporation, and its officers, Home Reader Service, Inc., a corporation, and its officers, Home Reference Library, Inc., a corporation, and its officers, Mutual Readers League, Inc., a corporation, and its officers, consenting parties herein, their successors or assigns, employees, franchisees or dealers, agents, salesmen, solicitors or other representatives and the employees, franchisees, agents, salesmen, solicitors or other representatives engaged by or through the consenting parties' franchisees or dealers, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of magazines or any other publications or merchandise, hereinafter sometimes referred to as products, or subscriptions to purchase any such products or services or in the collection or attempted collection of any delinquent or other subscription contract or other account, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that any representative or other person calling upon a customer or prospective customer for the purpose or with the result of inducing or securing a subscription to, order for, or the purchase or agreement to purchase any products or services:

(a) Is conducting or participating in any survey, quiz, or contest, or is engaged in any activity other than soliciting business; or misrepresenting, in any manner, the purpose of the call or solicitation.

(b) Represents, or is performing services for "Welcome Wagon" or any educational, charitable, social, or other organization, or any individual or firm other than one engaged in soliciting business; or misrepresenting, in any manner, the identity of the solicitor or of his firm and of the business they are engaged in.

(c) Will give any product or service free or as a gift or without cost or charge, or that any product or service can be obtained free or as a gift or without cost or charge, in connection with the purchase of, or agreement to purchase any product or service, unless the stated price of the product or service required to be purchased in order to obtain such free product or gift is the same or less than the customary and usual price at which such product or service required to be purchased has been sold separately from such free or gift item, and in the same combination if more than one item is required to be purchased, for a substantial period of time in the recent and regular course of business in the trade area in which the representation is made.

2. Failing, clearly, emphatically, and unqualifiedly to reveal, at the outset of the initial and all subsequent contacts or solicitations of purchasers or prospective purchasers, whether directly or indirectly, or by telephone, written or printed communication, or person-to-person, that the purpose of such contact or solicitation is to sell products or services as the case may be, which shall be identified with particularity at the time of each such contact or solicitation.

3. Representing, directly or indirectly, that any price for any product or service covers only the cost of mailing, handling, editing, printing, or any other element of cost, or is at or below cost; or that any price is a special or reduced price unless

it constitutes a significant reduction from an established selling price at which such product or service has been sold in substantial quantities by consenting parties in the same combination of items in the recent and regular course of their business; or misrepresenting, in any manner, the savings which will be accorded or made available to purchasers.

4. Representing, directly or indirectly, that any subscription contract or other purchase agreement can be canceled at the purchaser's option, or that the right to cancel will be accorded to any purchasers, when there is no provision in such contract or agreement for cancellation on the terms and conditions represented, and unless cancellation is in fact granted on such terms and conditions.

5. Refusing or failing upon request to cancel a contract when the representation has been made directly or indirectly that the contract will be cancellable.

6. Making any reference or statement concerning "50 cents per week," "60 months," or any other statement as to a sum of money or duration or period of time in connection with a subscription contract or other purchase agreement which does not in fact provide, at the option of the purchaser, for the payment of the stated sum, at the stated interval, and over the stated duration or period of time; or misrepresenting, in any manner, the terms, conditions, method, rate, or time of payment actually made available to purchasers or prospective purchasers.

7. Failing to clearly reveal orally, prior to the time the subscription contract is signed by the customer:

(a) The name, the exact number of issues, and the exact number of months of service of each publication covered by the contract;

(b) The total cost of each publication and all the publications covered by the contract; and

(c) The down payment required and the number, amount, and due dates of all installment payments.

8. Representing, directly or indirectly, that a subscription contract or other purchase agreement is a "preference list," "guarantee," "route slip," or any kind of document other than a contract or agreement; or misrepresenting, in any manner, the nature, kind, or legal characteristics of any document.

9. Failing, clearly emphatically and unqualifiedly to reveal orally and in writing to each purchaser or prospective purchaser before execution, the identity, nature, and legal import of any document they are requested or required to execute in connection with the purchase of any product or service.

10. Attempting, by the use of telephone calls, printed matter, or any other means, to harass or intimidate customers in order to effect payment of any account, or representing directly or indirectly, that in the event of nonpayment or delinquency of any account or alleged debt arising from any subscription contract or other purchase agreement, the general or public credit rating or standing of any person may be adversely affected, unless consenting parties refer the information concerning such delinquency to a bona fide credit reporting agency; or that legal action may be instituted unless consenting parties, in good faith, intend to institute legal action against each alleged debtor to whom such representation is made; or misrepresenting, in any manner, the action, or results of any action which may be taken to effect payment of any such account or alleged debt.

11. Canceling subscription contracts for any reason other than: (a) Breach by the subscriber, or (b) in the event of the discontinuance of publication or other unavailability of any publications subscribed for, without either arranging for the delivery of publications already paid for or promptly refunding money on a pro rata basis for all undelivered issues of publications for which payment has been made in advance.

12. Contracting for any sale in the form of a subscription contract or other purchase agreement which shall become binding on the purchaser prior to midnight of the third day, excluding Sundays and legal holidays, after the date of signing by the purchaser.

13. Failing to disclose, orally, prior to the time of sale and in writing on any subscription contract or other purchase agreement signed by the purchaser, with such conspicuousness and clarity as likely to be observed and read by such purchaser, that the purchaser may rescind or cancel the sale by mailing a notice of cancellation to consenting parties' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale.

14. Failing to provide a separate and clearly understandable form, showing the contract number, date signed by the subscriber and the name and address of the dealer or consenting party subsidiary, which the purchaser may use as a notice of cancellation.

15. Failing to furnish to each subscriber at the time of his signing of the subscription contract a duplicate original of the contract showing date signed by the customer and name of salesman together with his agency's address and telephone number and showing on the same side of the page, above or adjacent to the place for the customer's signature, the exact number and name of the publications being subscribed for; the number of issues for each; the downpayment required; the number, dollar amount and due dates of each installment payment; amount and rate of finance charge, if any; the charge, if any, for late payment and the conditions under which such charge shall be assessed, and the total price for each and all such publications.

16. Failing to furnish with each coupon book initially provided to each subscriber a copy of the contract showing all changes since the initial signing, and setting forth the final terms of the contract.

17. Failing to include on the cover of each coupon book furnished to a subscriber:

(a) A statement showing the total number of coupons in the book, the dollar amount of each such coupon, the total dollar amount of all such coupons, and

(b) A legend stating:

Check the number of coupons in this book and their amounts against your original subscription contract.

18. In the event of the discontinuance of publication, or other unavailability, of any magazines subscribed for, at any time during the life of the contract, failing to offer the subscriber the right to substitute one or more magazines or other publications, or the extension of subscription periods of magazines already selected.

19. Failing or refusing to cancel, at the subscriber's sole option, all or any portion of a subscription contract entered into after entry of this order whenever any misrepresentation prohibited by this order has been made.

20. Furnishing or otherwise placing in the hands of others the means and instrumentalities by and through which the public may be misled or deceived in the manner or as to things prohibited by this order.

It is further ordered, That:

(a) The consenting parties herein deliver, by registered mail, a copy of this decision and order to each of their present and future dealers or franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, or other representatives, who sell, make, or attempt to make, collections for the account of any consenting parties hereto, promote or distribute the products or services included in this order;

(b) The consenting parties provide each person so described in paragraph (a) above with a form, returnable to the consenting parties and to the Commission, clearly stating his intention to be bound by and to conform his business practices to the requirements of this order;

(c) The consenting parties inform all such present and future dealers or franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, or other representatives, who sell, make, or attempt to make collections for the account of any of the consenting parties hereto, promote or distribute the products or services included in this order that the consenting parties shall not use any third party, or the services of any third party unless such third party agrees to and does, file notice with the consenting parties and the Commission that it will be bound by the provisions contained in this order;

(d) If such party will not agree to so file notice with the consenting parties, and the Commission, and be bound by the provisions of the order, the consenting parties shall not use such third party, or the services of such third party to solicit subscriptions, or make, or attempt to make collections;

(e) The consenting parties so inform the persons so described in paragraph (a) above that the consenting parties are

obligated by this order to discontinue dealing with those persons who continue on their own the deceptive acts or practices prohibited by this order;

(f) The obligations of consenting parties as set forth in paragraphs (a) through (e) above, and in paragraphs (g) and (h) hereafter of this order shall, with respect to persons engaged solely to make, or attempt to make, collections for the account of any of the consenting parties, apply only to compliance with those provisions of the order relating to said activity and that said persons so engaged be required under this order only to conform their practices to paragraph 10 of this order;

(g) The consenting parties institute and continue for any period they are engaged in practices covered by this order a program of continuing surveillance adequate to reveal whether the business operations of each of said persons so engaged conform to the requirements of this order;

(h) The consenting parties discontinue dealing with the persons so engaged, revealed by the aforesaid program of surveillance, who continue on their own deceptive acts or practices prohibited by this order.

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

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

By the Commission, with Chairman Kirkpatrick not participating.

Issued: August 3, 1972.

[SEAL] VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.72-15357 Filed 9-7-72;8:45 am]

[Docket No. 2261]

PART 13—PROHIBITED TRADE PRACTICES

David Fruit and Co., Inc., and David Fruit

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.155 *Prices:* 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act;—Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, David Fruit and Co., Inc., et al., Lackawanna, N.Y., Docket No. C–2261, July 27, 1972]

In the Matter of David Fruit and Co., Inc., a Corporation, and David Fruit, Individually and as an Officer of Said Corporation

Consent order requiring among other things, a Lackawanna, N.Y., seller of furniture, jewelry, and other merchandise to cease violating the Truth In Lending Act by failing to disclose to customers the annual percentage rate, the total number of payments, the method of computing penalty charges, the cash price, the unpaid balance of the cash price, the deferred payment price, the cash down-payment required, and other disclosures required by Regulation Z of the said Act. Respondent is further required to include on the face of its notes a notice that any subsequent holder takes the note with all conditions of the contract evidencing the debt.

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

It is ordered, That respondents David Fruit and Co., Inc., a corporation, and David Fruit, individually and as an officer of said corporation, its successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device in connection with any extension or arrangement for the extension of consumer credit or any advertisement to aid, promote or assist, directly or indirectly, any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth In Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

(1) Failing to use the term "cash price," as defined in § 226.2(i) of Regulation Z, to describe the purchase price of furniture, jewelry, and other merchandise, as required by § 226.8(c)(1) of Regulation Z.

(2) Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by § 226.8(c)(2) of Regulation Z.

(3) Failing to use the term "trade-in" to describe the downpayment in property made in connection with the credit sale, as required by § 226.8(c)(2) of Regulation Z.

(4) Failing to use the term "total downpayment" to describe the sum of the "cash price" and "trade-in," as required by § 226.8(c)(2) of Regulation Z.

(5) Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total down payment, as required by § 226.8(c)(3) of Regulation Z.

(6) Failing to use the term "amount financed" to describe the amount of credit extended, as required by § 226.8(c)(7) of Regulation Z.

(7) Failing to use the term "finance charge" to describe the sum of all charges required by § 226.4 of Regulation Z to be included therein, as required by § 226.8(c)(8)(i) of Regulation Z.

(8) Failing to disclose the sum of the cash price, all charges which are not included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by § 226.8(c)(8)(ii) of Regulation Z.

(9) Failing to disclose the annual percentage rate, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

(10) Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

(11) Failing to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

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

(13) Failing to describe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by § 226.8(b)(5) of Regulation Z.

(14) Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by § 226.8(b)(7) of Regulation Z.

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

It is further ordered, That respondents cease and desist from:

Assigning, selling, or otherwise transferring respondents' notes, contracts, or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondents are preserved and may be asserted against any assignee or subsequent holder of such note, contract, or other documents evidencing the indebtedness.

It is further ordered, That respondents cease and desist from:

Failing to include the following statement clearly and conspicuously on the face of any note, contract, or other instrument of indebtedness executed by or on behalf of respondents' customers:

NOTICE

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

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

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

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

Issued: July 27, 1972.

By the Commission.

[SEAL] VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.72-15358 Filed 9-7-72;8:45 am]

[Docket No. C-2266]

PART 13—PROHIBITED TRADE PRACTICES

J. B. Williams Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.45 *Content;* § 13.135 *Nature of product or service;* § 13.280 *Unique nature or advantages.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1605 *Content;* § 13.1685 *Nature;* § 13.1770 *Unique nature or advantages.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, The J. B. Williams Co., Inc., et al., New York, N.Y., Docket No. C-2266, Aug. 3, 1972]

In the Matter of The J. B. Williams Co., Inc., a Corporation, Della Femina, Travisano & Partners, Inc., a Corporation, and Parkson Advertising Agency, Inc., a Corporation

Consent order requiring a New York City seller and distributor of a stimulant-type product and its advertising agencies, among other things, to cease disseminating any advertisement which represents the use of any such products will solve an individual's sexual, marital, or personality problems; advertising as a stimulant, any product which contains caffeine, unless the caffeine content is expressed in terms of the number of average cups of ordinary coffee, clearly and conspicuously, in immediate conjunction with a statement of active ingredients; representing any nonprescription drug as new when such product has been distributed for 6 months or more.

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

I. *It is ordered,* That respondents, The J. B. Williams Co., Inc., a corporation, Della Femina, Travisano & Partners, Inc., a corporation, and Parkson Advertising Agency, Inc., a corporation, their successors and assigns and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution, of the product designated "Vivarin" or any other stimulant drug product or any calmative drug product, including sleep-inducers, do forthwith cease and desist from:

1. Disseminating, or causing to be disseminated, by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents directly or by implication that:

(a) The use of any such product will solve an individual's marital, sexual, or personality problems.

(b) The use of any such product will improve an individual's personality, or make it more exciting, or will improve an individual's physical appearance, marriage, or sex life.

Provided, however, That in advertisements of sleep inducers this paragraph shall not prohibit representations that, by providing the user with a good night's sleep, such products can help the user to feel rested and look better. This paragraph shall not preclude the Commission from challenging these representations as unlawful in a future proceeding under section 5(b) of the Federal Trade Commission Act.

2. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, whch contains any of the representations prohibited in paragraph 1 above.

II. *It is further ordered,* That respondents, The J. B. Williams Co., Inc., a corporation, Della Femina, Travisano & Partners, Inc., a corporation, and Parkson Advertising Agency, Inc., a corporation, their successors and assigns and respondents' officers, representatives, agents, and employees, directly, or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from:

1. Advertising, as a stimulant, "Vivarin" or any other drug product which contains caffeine unless the caffeine content, expressed in terms of the number of average size cups of ordinary coffee, is clearly and conspicuously disclosed with a statement in immediate conjunction therewith that caffeine is the primary active ingredient, or one of the primary active ingredients if such product contains more than one active ingredient.

2. Disseminating, or causing the dissemination of, any advertisement by means of the U.S. mails or by any means in the Federal Trade Commission Act, which contains statements which are inconsistent with, negate, or contradict the affirmative disclosure required by paragraph 1 above, or which in any way obscures the meaning of such disclosure.

III. *It is further ordered,* That respondents, The J. B. Williams Co., Inc., a corporation, and Parkson Advertising Agency, Inc., a corporation, their successors and assigns and respondents' officers, agents, representatives, and employees, directly, or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from representing, directly, or by implication, that any nonprescription drug product is new, has new ingredients, or is new in its therapeutic effectiveness when such product has been distributed for 6 months or more, or when it is substantially similar in composition and therapeutic effectiveness to another product advertised for the same therapeutic effect which has been distributed for at least 6 months. (For the purpose of this provision "distributed" shall not include distribution in areas representing not more than 15 percent of the population.)

Provided however, Respondents may represent that any such product has not been previously sold, advertised, or manufactured, by respondent, The J. B. Williams Co., Inc., if such is the case.

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

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

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

Issued: August 3, 1972.

By the Commission.

[SEAL] VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc. 72-15205 Filed 9-7-72;8:46 am]

[Docket No. C-2260]

PART 13—PROHIBITED TRADE PRACTICES

Leemor Import Corp., et al.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Leemor Import Corp., et al., New York, N.Y., Docket No. C-2260, July 27, 1972]

In the Matter of Leemor Import Corp., a Corporation, and Joseph Salem and Eli Haber, Individually and as Officers of Said Corporation

Consent order requiring a New York City importer and distributor of women's accessories, including women's scarves, to cease, among other things, selling, importing, or transporting any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

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

It is ordered, That respondent Leemor Import Corp., a corporation, its successors and assigns, and its officers, and Joseph Salem and Eli Haber individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from selling, offering for sale, in commerce or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or selling or offering for sale any product made of fabric or related material which has been shipped and received in commerce, as "commerce," "product," "fabric," and "related material," are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to the complaint of the flammable nature of said products and effect recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall within ten (10) days after service upon them of this order file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning: (1) The identity of the product which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products and of the results thereof, (4) any disposition of said products since January 15, 1971, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

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

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

Issued: July 27, 1972.

By the Commission.

[SEAL] VIRGINIA M. HARDING, *Acting Secretary.*

[FR Doc.72-15200 Filed 9-7-72;8:45 am]

[Docket No. C-2262]

PART 13—PROHIBITED TRADE PRACTICES

Parade Furniture, Inc. and Meyer Sanin

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.155 *Prices:* 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act;—Prices: § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Parade Furniture, Inc., et al., Buffalo, N.Y., Docket No. C-2262, July 27, 1972]

In the Matter of Parade Furniture, Inc., a Corporation, and Meyer Sanin, Individually and as an Officer of Said Corporation

Consent order requiring a Buffalo, N.Y., retailer of furniture, appliances, and other merchandise, among other things, to cease violating the Truth in Lending Act by failing to disclose to customers the annual percentage rate, the total number of payments, the method of computing penalty charges, the cash price, and other disclosures required by Regulation Z of the said Act. Respondent is further required to include on the face of its notes a notice that any subsequent holder takes the note with all conditions of the contract evidencing the debt.

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

It is ordered, That respondents Parade Furniture, Inc., a corporation, and Meyer Sanin, individually and as an officer of said corporation, its successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension or arrangement for the extension of consumer credit or any advertisement to aid, promote or assist, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (P.L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to use the term "cash price," as defined in § 226.2(i) of Regulation Z, to describe the purchase price of furniture, appliances, or other merchandise as required by § 226.8(c)(1) of Regulation Z.

2. Failing to use the term "amount financed" to describe the amount of credit extended as required by § 226.8(c)(7) of Regulation Z.

3. Failing to use the term "finance charge" to describe the sum of all charges required by § 226.4 of Regulation Z to be included therein as required by § 226.8(c)(8)(i) of Regulation Z.

4. Failing to disclose the sum of the cash price, all charges which are not included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by § 226.8(c)(8)(ii) of Regulation Z.

5. Failing to use the term "annual percentage rate" as defined in § 226.2(e) of Regulation Z, to describe the annual percentage rate of the finance charge computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

6. Failing to disclose the annual percentage rate, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

7. Failing to print "annual percentage rate" more conspicuously than other required terminology, as prescribed by § 226.6(a) of Regulation Z.

8. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

9. Failing to disclose the number of payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

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

It is further ordered, That respondents cease and desist from:

Assigning, selling, or otherwise transferring respondents' notes, contracts, or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondents are preserved and may be asserted against any assignee or subsequent holder of such note, contract, or other documents evidencing the indebtedness.

It is further ordered, That respondents cease and desist from:

Failing to include the following statement clearly and conspicuously on the face of any note, contract, or other instrument of indebtedness executed by or on behalf of respondents' customers:

NOTICE

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

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

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

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

Issued: July 27, 1972.

By the Commission.

[SEAL] VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.72-15201 Filed 9-7-72;8:45 am]

[Docket No. C-2264]

PART 13—PROHIBITED TRADE PRACTICES

Peach Rug Company, Inc., et al.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Peach Bug Co., Inc., et al., Athens, Ga., Docket No. C-2264, Aug. 2, 1972]

In the Matter of Peach Rug Co., Inc., a Corporation, Trading as Associated Rug Mills of Georgia, and Armcor Carpet Mills, and Herman B. Upchurch, Individually and as an officer of Said Corporation

Consent order requiring, among other things, an Athens, Ga., manufacturer of carpets and rugs to cease manufacturing, importing, or selling any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

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

It is ordered, That respondent Peach Rug Co., Inc., a corporation, trading as Associated Rug Mills of Georgia, and Armcor Carpet Mills, or under any other name or names, its successors and assigns, and its officers, and respondent Herman B. Upchurch, individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since March 6, 1972, and (6) any action taken to proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

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

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this

order, file with the Commission a report in writing setting forth in detail the manner and form in which they have compiled with this order.

Issued: August 2, 1972.

By the Commission.

[SEAL] VIRGINIA M. HARDING,

[FR Doc.72-15202 Filed 9-7-72;8:45 am]

[Docket No. C-2259]

PART 13—PROHIBITED TRADE PRACTICES

Sam Zias, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products* falsely: 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-30 Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act; § 13.1870 *Nature:* 13.1870-40 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Sam Zias, Inc., et al., New York, N.Y., Docket No. C-2259, July 27, 1972]

In the Matter of Sam Zias, Inc., a Corporation, and Sam Zias and George Makos, Individually and as Officers of Said Corporation

Consent order requiring a New York City manufacturer of fur products to cease misbranding and deceptively invoicing its merchandise.

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

It is ordered, That the respondents Sam Zias, Inc., a corporation, its successors and assigns, and its officers, and Sam Zias and George Makos, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary or other device in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; or in connection with the introduction into commerce, or the transportation or distribution in commerce, of any fur, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forth with cease and desist from:

A. Misbranding any fur product by:

1. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

2. Failing to set forth the term "natural" as part of the information required to be disclosed on a label under the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe such fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Failing to set forth on a label the item number or mark assigned to such fur product.

4. Failing to set forth on a label the true animal name of the fur used in such fur product.

5. Setting forth information required under the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form on a label pertaining to such fur product.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on an invoice that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Failure to set forth on an invoice the item number or mark assigned to such product.

4. Setting forth information required under the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form on an invoice pertaining to such fur product.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

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

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

Issued: July 27, 1972.

By the Commission.

[SEAL] VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.72-15203 Filed 9-7-72;8:46 am]

[Docket No. C-2263]

PART 13—PROHIBITED TRADE PRACTICES

Vasu D. Sodhani, and Indogreen Enterprise

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Vasu D. Sodhani, trading as Indogreen Enterprise, Docket No. C-2263, Piscataway, N.J., July 27, 1972]

In the Matter of Vasu D. Sodhani, an Individual Trading as Indogreen Enterprise

Consent order requiring a Piscataway, N.J., importer, seller, and distributor of textile fiber products, including women's scarves, to cease, among other things, manufacturing for sale, importing, selling, or transporting any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provision of the Flammable Fabrics Act.

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

It is ordered, That respondent Vasu D. Sodhani, individually and trading as Indogreen Enterprise or under any other trade name, and respondent's representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation issued, amended or continued in effect, under the provisions of the aforesaid Act.

It is further ordered, That respondent notify all of his customers who have purchased or to whom have been delivered the scarves which gave rise to the complaint, of the flammable nature of said

scarves and effect the recall of said scarves from such customers.

It is further ordered, That the respondent herein either process the scarves which gave rise to the complaint so as to bring it into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said scarves.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon him of this order, file with the Commission an interim special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the scarves which gave rise to the complaint, (2) the number of said scarves in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said scarves and effect the recall of said scarves from customers, and of the results thereof, (4) any disposition of said scarves since December 16, 1971, and (5) any action taken or proposed to be taken to bring said scarves into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said scarves, and the results of such action. Such report shall further inform the Commission as to whether or not respondent has in inventory any product, fabric or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondent shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

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

Issued: July 27, 1972.

By the Commission.

[SEAL] VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.72-15204 Filed 9-7-72;8:46 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-7—CONTRACT CLAUSES

Summarization Clauses for Contract Modifications

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The purpose of this amendment is to provide consistency in summarizing the effects of contract modifications on the contracts modified.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, the amendment herein involves the internal operations of the Department and would have no effect upon the general public. For this reason, the public rule making process is deemed unnecessary in this instance.

1. The table of contents of Part 3-7 is amended to add a new § 3-7.5008 to Subpart 3-7.50 as follows:

Sec.
3-7.5008 Summarization clauses for contract modifications.

2. Section 3-7.5008 is added to read as follows:

§ 3-7.5008 Summarization clauses for contract modifications.

The clauses set forth below shall be used as appropriate in contract modifications as concluding provisions of the modification.

(a) The contract amount is hereby (increased) (decreased) by $------, from $------ to $------, by reason of this modification.

(b) The contract completion date is hereby changed from ---------- to ---------- by reason of this modification.

(c) Neither the contract amount nor the contract completion date is changed by reason of this modification.

(d) The contract amount is neither increased nor decreased by reason of this modification.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (9-8-72).

Dated: August 31, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

[FR Doc.72-15252 Filed 9-7-72;8:50 am]

Title 22—FOREIGN RELATIONS

Chapter II—Agency for International Development, Department of State

[AID Reg. 1]

PART 201—RULES AND PROCEDURES APPLICABLE TO TRANSACTIONS FINANCED BY AID

Inclusion of Thailand Within AID, Geographic Code 910—"Selected Less Developed Countries"

In Part 201 of Chapter II, Title 22 (AID Regulation 1), § 201.11(b)(4), the phrase "and Tunisia" is changed to "Tunisia, and Thailand" in the summary of Code 910—"Selected Less Developed Countries."

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (9-8-72).

Dated: August 29, 1972.

MAURICE J. WILLIAMS,
Acting Administrator.

[FR Doc.72-15270 Filed 9-7-72;8:53 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-452; Order 458]

PART 1—RULES OF PRACTICE AND PROCEDURE

PART 2—GENERAL POLICY AND INTERPRETATIONS

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS; MISCELLANEOUS CHARGES; ETHICAL STANDARDS

Redesignation of Title "Hearing Examiner" to "Administrative Law Judge"

SEPTEMBER 1, 1972.

By amendment of Subpart B, Part 930, Title 5, Code of Federal Regulations, effective August 17, 1972, the Civil Service Commission has changed the title "Hearing Examiner" to "Administrative Law Judge." (37 F.R. 16787.)

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, and the Natural Gas Act, as amended, particularly section 309 of the Federal Power Act, 16 U.S.C. 825b, and section 16 of the Natural Gas Act, 15 U.S.C. 717o, orders:

(A) The Commission's rules and regulations, Subchapter A, Part 1, Rules of Practice and Procedure, Part 2, General Policy and Interpretations, and Part 3, Organization; Operation; Information and Requests; Miscellaneous Charges; Ethical Standards, are hereby amended as follows:

(1) Wherever the title "Hearing Examiner," "Presiding Examiner," "Trial Examiner," or "Examiner" appears, it is hereby amended to "Administrative Law Judge."

(2) Wherever the title "Chief Hearing Examiner" or "Chief Examiner" appears, it is hereby amended to "Chief

(3) Wherever the title "Office of Administrative Law Judge."
Hearing Examiners" appears, it is hereby amended to "Office of Administrative Law Judges."

(B) The notice requirements of 5 U.S.C. 553 are not applicable since this order involves matters of agency procedure and practice.

(C) The amendment herein prescribed shall be effective upon the issuance of this order.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-15224 Filed 9-7-72;8:47 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-234]

PART 16—LIQUIDATION OF DUTIES

Canned Tomatoes and Canned Tomato Concentrates From Italy

Treasury Decision 68-112, published in the FEDERAL REGISTER of April 19, 1968 (33 F.R. 6011), imposed countervailing duties on canned tomatoes and canned tomato concentrates imported directly or indirectly from Italy.

Treasury Decision 68-112 was modified by Treasury Decision 69-13, published in the FEDERAL REGISTER of December 31, 1968 (33 F.R. 20037), and by Treasury Decision 70-83, published in the FEDERAL REGISTER of April 7, 1970 (35 F.R. 5610).

Treasury Decision 69-13 lowered the rate of countervailing duties imposed to reflect a decrease in the amount of the bounties or grants paid or bestowed by the Government of Italy within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) on exports of canned tomatoes and canned tomato concentrates, effective November 27, 1968. Treasury Decision 70-83 raised the rate to reflect an increase in the amount of the bounties or grants paid or bestowed, effective February 21, 1970.

Information has been received that the Government of Italy, effective July 15, 1971, discontinued the payments, or bestowals of bounties, or grants, within the meaning of section 303 of the Tariff Act of 1930, on the export of canned tomatoes and canned tomato concentrates from Italy directly to the United States, and that bounties or grants, at a new rate, continue to be paid or bestowed upon the export of these tomato products from Italy to countries other than the United States.

Accordingly, countervailing duties will not be collected on canned tomatoes and canned tomato concentrates exported from Italy directly to the United States on and after July 15, 1971.

In accordance with section 303 of the Tariff Act of 1930, the net amount of the bounty or grant, on canned tomatoes and canned tomato concentrates exported from Italy to countries other than the United States on and after July 15, 1971, has been ascertained and determined or estimated, and such net amount is hereby declared to be as shown in Appendix A.

Effective on July 15, 1971, and until further notice, upon entry for consumption or withdrawal from warehouse for consumption of such dutiable canned tomatoes or canned tomato concentrates imported from third countries, which were exported from Italy on or after July 15, 1971, and which benefit from such bounty or grant, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

The table in § 16.24(f) of the Customs Regulations is amended by inserting after the last line under "Italy—Canned tomatoes and canned tomato concentrates" the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Discontinued as to canned tomatoes and canned tomato concentrates exported from Italy directly to the United States on and after July 15, 1971; new rate as to canned tomatoes and canned tomato concentrates exported from Italy to countries other than the United States and subsequently imported into the United States" in the column headed "Action."

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] LEONARD LEHMAN, *Acting Commissioner of Customs.*

Approved: August 31, 1972.

EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

APPENDIX A

Description	Amount of bounty or grant on exports from Italy to countries other than the United States	
	July 15, 1971, through Aug. 3, 1971	Aug. 4, 1971, and thereafter
	Per 100 kilos	*Per 100 kilos*
Canned tomatoes	2,812.50 lire	3,750.00 lire.
Canned tomato concentrates by content of dry extract:		
12% and over, but less than 18%	2,675.00 lire	3,012.50 lire.
18% and over, but less than 28%	4,106.25 lire	4,618.75 lire.
28% and over, but less than 36%	5,000.00 lire	5,625.00 lire.
36% and over, but less than 95%	5,718.75 lire	7,231.25 lire.
95% and over	17,000.00 lire	19,125.00 lire.

[FR Doc.72-15218 Filed 9-7-72;8:51 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Certain Process Cheeses and Cheese Products; Confirmation of Effective Date of Standard of Identity Order Listing Buttermilk as Optional Ingredient

In the matter of amending the standard of identity for pasteurized process cheese food (21 CFR 19.765), pasteurized process cheese spread (21 CFR 19.775), pasteurized neufchatel cheese spread with other foods (21 CFR 19.783), and cold-pack cheese food (21 CFR 19.787) by listing buttermilk as an optional ingredient:

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sections 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed in response to the order on the above-identified matter published in the FEDERAL REGISTER of June 13, 1972 (37 F.R. 11722). Accordingly, the amendment promulgated by that order became effective August 12, 1972.

Dated: August 31, 1972.

SAM D. FINE, *Associate Commissioner for Compliance.*

[FR Doc.72-15267 Filed 9-7-72;8:52 am]

PART 37—FISH

Canned Pacific Salmon; Standards of Identity and Fill of Container

In the matter of establishing standards of identity and fill of container for canned Pacific salmon:

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of February 24, 1971 (36 F.R. 3419), based on a proposal made by the Commissioner of Food and Drugs, on his own initiative.

Six letters were received in response to the proposal. Four of the six letters contained more than one comment. Two of the letters supported the proposal as published. The other four recommended certain changes in various aspects of the proposal and are discussed herein.

Two comments objected to the proposed requirement that the species of fish be declared on the label as part of the name of the food. Since a major purpose of the Commissioner for proposing the standard of identity is to provide for informative labeling, and as wide variations in characteristics, and ultimately in price, exist among different species of Pacific salmon, the Commissioner considers that it would not be in the interest of consumers to permit labeling that does not identify the species.

Two comments requested that the standard permit the use of steelhead (*Salmo gairdneir*) species. The steelhead is classed as a trout in the Encyclopedia Americana and in the American Fisheries Society Publication No. 6, 3d Ed., 1970, page 17. (Copies of this publication are available for a nominal fee from the American Fisheries Society, 1040 Washington Building, 15th Street and New York Avenue NW., Washington, D.C. 20005.) Since the steelhead is a trout and not a true Pacific salmon, the Commissioner rules that it may not be labeled as a "salmon" and therefore should not be provided for in the standard set out below.

Four comments requested that optional forms other than regular be omitted from the standard. Since a reasonable amount of "skinless and backbone removed" salmon is packed, the Commissioner concludes that this form should be included in the standard. Since forms of pack other than "regular" and "skinless and backbone removed," i.e., minced salmon, salmon tips and tidbits, and smoked salmon, constitute an insignificant proportion of the annual production, the Commissioner concludes that it is unnecessary to promulgate a standard for such products.

Four comments opposed the requirement in the proposal that all descriptive wording in the name of the food be in the same style of type and not less in height than those used in the word "Salmon." The Commissioner concludes that this requirement should apply to the species declaration but need not apply to the form of pack. However, the standard does include certain minimum requirements for the size of letters used in describing the form of pack.

Four comments proposed relaxing the requirements for form of pack on the grounds that the sections of salmon may become crossed in the filling machine with the result that it is not always possible to fill the can in such a way that all sections are vertical. The Commissioner has investigated the matter and concludes that the prescribed manner of fill is commercially feasible and that it is consistent with the present industry practice.

Four comments requested a change in the statement in the proposal that a portion of salmon may be added to complete the fill. They requested that the requirement be changed to indicate that salmon may be added if necessary to fill the container. The Commissioner is opposed to such a broad statement as that suggested in the comments because it would permit the use of ground salmon to complete the container fill. The order has been changed to say that one or more pieces of salmon may be added if necessary to complete the fill of the container.

Two comments recommended deletion of the "two-layer pack" on the grounds that it is not produced by industry. The Commissioner concurs in making this change.

Two comments took exception to the proposal that the fill of container be not less than 90 percent of the total capacity of the container based on 21 CFR 10.6 (b) and proposed a list of minimum weights for the can sizes commonly used. The Commissioner considers these minimum weights to be in the interest of consumers and therefore acceptable for incorporation into the standard of fill of container.

Inasmuch as no one presently produces or has in the past produced a water-pack salmon, there appears to be no reason to incorporate a requirement for such a pack into the standard.

There appears to be little likelihood of abuse through the addition of salmon oil in such a way as to make the canned salmon appear to be of better quality than it is. The practice of adding salmon oil to canned salmon appears to be self-limiting. Salmon oil for use in the canned salmon is normally prepared by the canner from edible cannery scraps of the salmon species being processed and, accordingly, is available in limited quantities. When it is used, only a few milliliters are added to each can of salmon. Salmon oil is added to a very small percentage of the total pack and even then only to king, coho, and red salmon.

The original proposal (36 F.R. 3419), in § 37.10(e)(3)(ii), specified that salt and salmon oil, when added, be declared on the principal display panel of the label. The Commissioner now concludes that, since even the species of salmon are optional, all ingredients in the canned salmon are considered to be optional. Consequently, full ingredient labeling, in accordance with 21 CFR 3.88 (37 F.R. 5120), will be required. The general requirements for all food labeling will apply.

On the basis of the information given in the proposal, the comments received, and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the proposal, as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That Part 37 be amended by adding the following new sections:

§ 37.10 Canned Pacific salmon; identity.

(a) Canned Pacific salmon is the food prepared from one of the species of fish enumerated in paragraph (b) of this section, prepared in one of the forms of pack specified in paragraph (c) of this section, and to which may be added one or more of the optional ingredients specified in paragraph (d) of this section. The food is packed in hermetically sealed containers and so processed by heat as to prevent spoilage and soften bones. The food is labeled in accordance with paragraph (e) of this section.

(b) (1) The species of fish which may be used in this food are:

Oncorhynchus tshawytscha	Chinook, king, spring.
Oncorhynchus nerka	Blueback, red, sockeye.
Oncorhynchus kisutch	Coho, medium red, silver.
Oncorhynchus gorbuscha	Pink.
Oncorhynchus keta	Chum, keta.
Oncorhynchus masou	Masou, cherry.

(2) For the purpose of paragraph (e)(1) of this section, the common or usual name or names of each species of fish enumerated in subparagraph (1) of this paragraph is (are) the name(s) immediately following the scientific name of each species.

(c) The optional forms of canned Pacific salmon are processed from fish prepared by removing the head, gills, viscera, blood, fins, tail, and damaged or discolored flesh and then washing. Canned Pacific salmon is prepared in one of the following forms of pack:

(1) "Regular" consists of sections or steaks which are cut transversely from the fish and filled vertically into the can. The sections or steaks are so packed that the cut surfaces approximately parallel the ends of the container. One or more pieces of salmon may be added if necessary to complete the fill of the container.

(2) 'Skinless and backbone removed" consists of the regular form of canned salmon set forth in subparagraph (1) of this paragraph from which the skin and vertebrae have been removed in accordance with good manufacturing practices.

(d) One or more of the following optional ingredients may be added to the food:

(1) Salt.

(2) Edible salmon oil comparable in color, viscosity, and flavor to the oil which would occur naturally in the species of salmon canned.

(e) (1) The name of the food is "salmon" together with the common or usual name of the species which shall be printed in letters of the same style of type and not less in height than those used for the word "salmon."

(2) Whenever the form of pack is that described in paragraph (c)(2) of this section, the word or words describing such form of pack shall immediately precede or follow without intervening written, printed, or graphic matter the name of the food wherever such name appears on the label so conspicuously as to be easily seen under customary conditions of purchase, for example "red salmon skinless and backbone removed." The word or words describing the form of pack shall appear in conspicuous and easily legible letters of boldface print or type the size of which shall be not less than that required by § 1.8b of this chapter for the statement of net quantity of contents appearing on the label but in no case less than one-eighth of an inch in height.

(3) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 1 of this chapter. Further, the declaration of the ingredients as set forth in this paragraph shall appear in letters the size of which shall be not less than one-half of that required by § 1.8b of this chapter for the declaration of net quantity of contents but in no case less than one-sixteenth of an inch in height.

§ 37.12 Canned Pacific salmon, fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned salmon, based on a 24-can average, is a fill including all the contents of the container and is not less than the minimum net weight specified for the corresponding can size in the following table:

I. *Can size*	II. *Minimum net weight*
603x405	64 oz. (4 lb.)
301x411	16 oz. (1 lb.)
301x408	15½ oz.
401x211	15½ oz.
607x406x108	15½ oz.
301x308	12 oz.
307x200.25	7¾ oz.
513x307x103	7¾ oz.
307x113	6¾ oz.
301x106	3¾ oz.
407x213x015	3¾ oz.

If the can size in question is not listed, calculate the value for column II as follows: From the list, select as the comparable can size, that one having the nearest water capacity of the can size in question, multiply the net weight listed in column II by the water capacity of the can size in question, and divide by the water capacity of the comparable can size. Water capacities are determined by the general method provided in § 10.6(a) of this chapter.

(b) If canned salmon falls below the standard of fill or container prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard of fill of container prescribed chapter, in the manner and form therein specified.

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, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. 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 and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: August 31, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-15209 Filed 9-7-72;8:46 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ETHYLENE-VINYL ACETATE-VINYL ALCOHOL COPOLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP OB 2494) filed by E. I. du Pont de Nemours Co., Inc., 1007 Market Street, Wilmington, Del. 19898, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of ethylene-vinyl acetate-vinyl alcohol copolymers as articles or components of articles intended for use in contact with food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (section 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding a new section to Subpart F as follows:

§ 121.2619 Ethylene-vinyl acetate-vinyl alcohol copolymers.

Ethylene-vinyl acetate-vinyl alcohol copolymers may be safely used as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) Ethylene-vinyl acetate-vinyl alcohol copolymers are produced by the partial or complete alcoholysis or hydrolysis of those ethylene-vinyl acetate copolymers complying with § 121.2570 and containing a minimum of 55 percent ethylene such that the finished ethylene-vinyl acetate-vinyl alcohol copolymers will contain no more than 30 percent vinyl alcohol units by weight.

(b) The finished food contact article shall not exceed 0.005 inch thickness and shall contact foods only of the types identified in table 1 of § 121.2526(c) in categories I, II, IV-B, VI, VII-B, and VIII under the conditions of use D through G described in table 2 of § 121.2526(c): *Provided,* That film samples of 0.005 inch thickness representing the finished article meet the following extractives limitation when tested by ASTM Method F34-63T:

(1) The film when extracted with distilled water at 70° F. for 48 hours yields total extractives not to exceed 0.03 milligrams per square inch of food-contact surface.

(2) The film when extracted with 50 percent alcohol at 70° F. for 48 hours yields total extractives not to exceed 0.04 milligram per square inch of food-contact surface.

(c) The provisions of this section are not applicable to ethylene-vinyl acetate-vinyl alcohol copolymers used in the food packaging adhesives complying with § 121.2520.

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, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, 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. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (9-8-72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: August 31, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-15210 Filed 9-7-72;8:46 am]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER U—ELECTRIC POWER SYSTEM

PART 232—FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

Service Connections

AUGUST 30, 1972.

This notice is published in exercise of rule making authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938). The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. sec. 301 (1970 ed.), and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 13993 of the FEDERAL REGISTER of July 15, 1972 (37 F.R. 13993), there was published a notice of proposed rule making to amend § 232.10 of Part 232, Subchapter U, Chapter I, of Title 25 of the Code of Federal Regulations, by eliminating the need for the Flathead Project to furnish a meter socket or meter base to consumers. These items are now standardized and, as a general practice in the electric utility industry, the consumer furnishes a complete meter loop. This amendment was proposed pursuant to sections 6 and 7 of the Act of May 25, 1948 (62 Stat. 269-273).

Interested persons were given 30 days in which to submit written comments, suggestions, or objections, regarding the proposed amendment to regulations.

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

In order to permit the project to discontinue immediately the purchasing and stocking of these items and the supplying thereof to the consumer, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, these regulations will become effective upon date of publication in the FEDERAL REGISTER (9–8–72).

JOHN O. CROW,
Deputy Commissioner.

§ 232.10 Service connections.

On each view service the consumer shall provide and maintain a service entrance at a location convenient to the lines of the project, and all connections from the service entrance to the meter base and from the meter base to the main line circuit breaker or distribution center. The meter will be furnished by the United States. The meter socket will be furnished and installed by the consumer and in a suitable location, preferably on the outside of the building, or service pole, where the meter will be accessible to the meter-reader at all times. The meter socket shall not be more than 7 feet nor less than 5 feet above the ground or floor. The entire service installation must be satisfactory to the project engineer and must conform to the provisions then in force of the National Electrical Code of the National Board of Fire Underwriters for Electric Wiring and Apparatus. When alterations of a consumer's premises make it necessary to move an existing meter loop, the consumer may be required to install a meter socket in the new loop located in conformity with the stipulations of this section. When an inspection is required by municipal ordinance, the project engineer shall require a certificate of inspection and approval by the municipal inspector before connecting a new service.

[FR Doc.72–15240 Filed 9–7–72;8:49 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

EXTERIOR BUILDING MAINTENANCE; CORRECTION

Pursuant to authority in sections 6(a) and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657) and Secretary of Labor's Order No. 12–71 (36 F.R. 8754), editorial and clerical corrections are hereby made in several provisions of 29 CFR Part 1910 that are based upon "national consensus standards" within the meaning of section 3(9) of the Act (29 U.S.C. 552).

The provisions of 5 U.S.C. 553 concerning notice of proposed rule making, public participation therein, and delay in effective date are inapplicable by reason of the exception to 5 U.S.C. Ch. 5, provided in section 6(a) of the Act. Accordingly, these amendments shall become effective upon publication in the FEDERAL REGISTER (9–8–72). Further, the editorial and clerical changes do not alter any obligations of employers under the standards involved.

1. In § 1910.66, the title and paragraphs (b)(5)(ii) and (iii), (c)(5) and (6), and (e)(8) are amended to read as follows:

§ 1910.66 Powered platforms for exterior building maintenance.

* * * * *

(b) *General requirements.* * * *

(5) *Types of powered platforms.* * * *

(ii) Powered platforms designated as Type F shall meet all the requirements in Part II of ANSI A120.1—1970, American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance. A basic requirement of Type F equipment is that the work platform is suspendd by at least four wire ropes and designed so that failure of any one wire rope will not substantially alter the normal position of the working platform. Another basic requirement of Type F equipment is that only one layer of hoisting rope is permitted on winding drums. Type F powered platforms may be either roof-powered or self-powered.

(iii) Powered platforms designated as Type T shall meet all the requirements in Part III of ANSI A120.1—1970 American National Standard Safety Requirement for Powered Platforms for Exterior Building Maintenance. A basic requirement of Type T equipment is that the working platform is suspended by at least two wire ropes. Failure of one wire rope would not permit the working platform to fall to the ground, but would upset its normal position. The employer shall require employees working on Type T equipment to wear safety belts, which are attached by lifelines to either the working platform or the building structure. Type T powered platforms may be either roof-powered or self-powered.

* * * * *

(c) *Type F powered platforms.* * * *

(5) *Means for maintenance, repair, and storage.* Means shall be provided to run the roof car away from the roof perimeter, where necessary, and to provide a safe area for maintenance, repairs, and storage. Provisions shall be made to secure the machine in the stored position. For stored machines subject to wind forces, see special design and anchorage requirements for "wind forces" in Part II, section 10.5.1.1 of ANSI A120.1—1970, American National Standards Safety Requirements for Powered Platforms for Exterior Building Maintenance.

(6) *General requirements for working platforms.* The working platform shall be of girder or truss construction and shall be adequate to support its rated load under any position of loading, and comply with the provisions set forth in section 10 or ANSI A120.1—1970, American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance.

* * * * *

(e) *Inspections and tests.* * * *

(8) *Periodic reshackling of hoisting ropes.* The hoisting ropes shall be reshackled at the nondrum ends at intervals not exceeding 24 months. In reshackling the ropes, a sufficient length shall be cut from the end of the rope to remove damaged or fatigued portions.

* * * * *

2. In § 1910.67, paragraph (a)(1) is amended to read as follows:

§ 1910.67 Vehicle-mounted elevating and rotating work platforms.

(a) *Definitions applicable to this section.*—(1) *Aerial device.* Any vehicle-mounted device, telescoping or articulating, or both, which is used to position personnel.

* * * * *

(Secs. 6, 8, 84 Stat. 1593, 1598; 29 U.S.C. 655, 657)

Signed at Washington, D.C., this 5th day of September 1972.

GEORGE C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72–15261 Filed 9–7–72;8:51 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72–758]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Renewal and Licensing of Ship Station Licenses Aboard Vessels Registered in Alaska, or Documented Vessels With a Home Port in Alaska

Order. In the matter of amendment of Part 83 of the rules—to provide relaxation in regard to renewal and licensing of ship station licenses aboard vessels registered in the State of Alaska, or documented vessels with a home port in Alaska.

1. The Commission held public meetings in four cities in southeastern Alaska during the period May 13–16, 1972. These meetings were conducted for two primary reasons: (1) To explain the objectives and requirements of the Commission's maritime mobile service regulations, adopted in the proceeding in Docket No. 18632 and released on February 11, 1972; and (2) to obtain at first

hand the views, comments and/or objections of these boating communities to that part of the regulations which required, in the case of new installations, the fitting of very high frequency (VHF) radiotelephony equipment operating on frequencies in the band 156–162 MHz, as a prerequisite condition to eligibility for licensing of SSB radiotelephony equipment operating on frequencies in the bands between 2 and 23 MHz.

2. The views expressed in these meetings were that VHF should not, under conditions currently existing in Alaska, be required as a prerequisite to the licensing of SSB. As described, the conditions currently existing in Alaska are as follows:

A. RCA Alascom, the operator of public coast stations in Alaska, currently provides no VHF service. RCA Alascom is currently conducting studies and planning which looks to the provision of large area VHF coverage in various areas of Alaska. Those studies are expected to be completed later this year and, under current planning, are expected to result in the installation of VHF public coast stations during 1973.

B. The only VHF service provided at coast stations in Alaska is that provided at three or four locations by the USCG. These installations were not intended, designed, or located to provide a large area service. They provide, as intended, a local area short distance service. The USCG will, however, install within the next 6 months a high elevation VHF station at Anchorage, Alaska, to provide large area coverage. While it is the USCG policy to install VHF around the periphery of the 48 contiguous States, that policy does not yet include Alaska. The plans of the USCG in regard to installation of VHF in Alaska have not been finalized.

C. With regard to the use of VHF for intership communications in southeastern Alaska within the island area, the following factors have a bearing on the configuration of these islands, that is, their height and foliage, and the twisting nature of the waterways between these islands, limit the useful communication range of VHF for intership communications; and, in contrast to fishing operations in other areas, fishing vessels in Alaska are not operated in fleets. As described, fishing vessels operating "inside" (as contrasted to "outside", that is, in the Pacific Ocean) are operated as separate units and are no way in proximity to other such vessels. Thus, taking into account the island configuration, the use of VHF for intership communications was stated to be of limited or negligible benefit.

3. On the basis of the conditions set forth in paragraphs 2 A, B, and C, above, it appears that by January 1, 1974, there will be substantial VHF public coast service available in Alaska and that it is reasonable during the intervening period to suspend the requirement that the vessels in Alaska be fitted with VHF as a prerequisite to installation of 2 MHz SSB. Accordingly, § 83.351(c)(3)(ii) of Part 83 of the rules is amended as set forth below.

4. In each of the meetings at the four cities it was stated that a conclusion, bearing on the matter of renewal of 2 MHz DSB ship station licenses which expire after January 1, 1972, had been reached at a public hearing[1] held at Sitka, Alaska, on April 11, 1972. This conclusion was widely publicized and accepted by many in Alaska. Specifically, it was concluded that any of this type license would, if it expired after January 1, 1972, fall in the category of a new ship station; as a new ship station, it would be necessary to fit the vessel with VHF before it could be fitted with SSB. This conclusion was in error.

5. On the basis of information obtained at the above mentioned Alaska meetings, there were, during the calendar year 1971, a significant number of licensees of DSB ship stations in Alaska who could have but did not file for renewal of those licenses. The reasons for not filing for renewal varies from inadvertance to misunderstanding of the Commission's report and order. The Commission is of the view that an extension of the period for renewal of DSB authorizations in this category would not adversely affect the DSB to SSB conversion program and would otherwise be in the public interest. Accordingly, as set forth in the attached appendix, we are permitting renewal of this category of authorization where the license expired after January 1, 1971. In order that this arrangement will be terminated in an orderly manner, such applications for renewal will not be granted if filed after January 1, 1973.

6. Because the amendment adopted herein relieve a restriction and this restriction is currently affecting licenses to their detriment compilance with the prior notice and procedure provision of 5 U.S.C. sec. 553 is impractical and the effective date provision of that section is not applicable. *Accordingly, it is ordered,* Pursuant to the authority contained in sections 4(i) and 303 (e), (f), and (r) of the Communications Act of 1934, as amended, that effective September 8, 1972, Part 83 of the Commission's rules is amended as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1032; 47 U.S.C. 154, 303)

Adopted: August 29, 1972.

Released: August 31, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary.*

[1] The public hearing was convened by the Alaska Public Utilities Commission (APUC) to obtain information in regard to the closing of the public coast station at Sitka, Alaska, operated by RCA Alascom. Since renewal of ship station licenses was not within the purview of that hearing, we deduce that this conclusion was by those present and not by the APUC.

[2] Commissioners H. Rex Lee and Reid absent; Commissioner Hooks not participating.

Part 83, Stations on Shipboard in the Maritime Services, is amended as follows:

1. In § 83.139, a new paragraph (c)(3) is added to read as follows:

§ 83.139 Acceptability of transmitters for licensing.

* * * * *

(c) * * *

(3) Stations aboard vessels registered in the State of Alaska, or documented vessels with a home port in Alaska, which employ a DSB transmitter under a ship station license which expires or expired during the period January 1, 1971, to January 1, 1973, may be renewed for use until January 1, 1977: *Provided,* That an application for renewal of the ship station license is submitted: *And provided further,* That the license has not been:

(i) Canceled at the request of the licensee; or

(ii) Revoked by action of the Commission.

* * * * *

2. In § 83.351, a new footnote is added following paragraph (c)(3)(i) to read as follows:

§ 83.351 Frequencies available.

* * * * *

(c) * * *
(3) * * *
(i) * * *

NOTE: The requirement set forth in paragraph (c)(3)(i) of this section is applicable on January 1, 1974, to vessels bearing Alaska registration and documented vessels with a home port in Alaska.

* * * * *

[FR Doc.72-15229 Filed 9-7-72;8:52 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Bombay Hook National Wildlife Refuge, Del.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-8-72).

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, brant, and coots, on the Bombay Hook National Wildlife Refuge, Del., is permitted on areas designated by signs as open to hunting including the South Public Hunting Area, the West Public Hunting Area, the Youth Hunt Area, and the Upland Game Hunting Area. These open areas are delineated on maps available at the refuge headquarters, Smyrna, Del.,

and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, brant, and coots, subject to the following special conditions:

(1) Hunting is permitted on the West Public Hunting Area from one-half hour before sunrise to 12 noon local standard time, Tuesdays, Thursdays, and Saturdays during the goose season.

(2) Hunting in the South, West, and Youth Hunt, Public Hunting Areas shall be from existing numbered blinds. The possession of a loaded gun or shooting while outside of a blind in prohibited on these areas.

(3) No person shall have in his possession or use in 1 day more than 10 shells on the West Public Hunting Area.

(4) Hunting is permitted in the South Hunting Area during the State duck season.

(5) The necessary permit to enter the South Public Hunting Area may be obtained from 1 hour before shooting time until 3 p.m. local standard time at the checking station located at Port Mahon. The necessary permit to enter the West Public Hunting Area may be obtained by applying to the Refuge Manager for advance reservation. The permits for advance reservations will be canceled if the holder is not present 1 hour prior to the start of legal shooting time on the date of his reservation. These forfeited permits and permits not reserved by advance reservation will be awarded to other hunters by lot on the morning of the hunt. All hunters will check out through the headquarters checking station prior to leaving the refuge.

(6) Each hunting permittee using the West Public Hunting Area will pay a blind fee of $5 on the day of the hunt. A User Fee of $1 per hunter will be charged on the South Public Hunting Area.

(7) Not more than four persons may occupy a blind at any one time on the West Public Hunting Area nor more than three on the South Public Hunting Area.

(8) The Youth Hunt Area will be open on Saturdays and holidays to young hunters who present evidence of having completed the prescribed training program. Two youths, accompanied by an instructor who may not discharge a firearm, may use one blind.

(9) On designated days on the South, West, and Youth Hunt Areas, migratory waterfowl will be hunted with 12-gauge shotguns using iron shot.

The provisions of this special regulation supplement the regulations which govern hunting of wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1973.

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

AUGUST 28, 1972.

[FR Doc.72-15245 Filed 9-7-72;8:49 am]

PART 32—HUNTING

Montezuma National Wildlife Refuge, N.Y.

The following special regulation is issued and effective on date of publication in the FEDERAL REGISTER (9-8-72). The limited time ensuing from the date of the adoption of the Federal migratory game bird regulations to and including establishment of State hunting seasons makes it impracticable to give public notice of proposed rule making.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

The public hunting of ducks, geese (except snow geese), brant, gallinules, and coots, on the Montezuma National Wildlife Refuge, N.Y., is permitted on the areas designated by the signs as open to waterfowl hunting. Hunting is permitted only during the regular waterfowl season. This waterfowl hunting area known as the Storage Pool comprises 1,340 acres and is delineated on maps available at refuge headquarters, Seneca Falls, N.Y., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, brant, gallinules, and coots, subject to the following special conditions:

1. Hunting is permitted on Tuesdays, Thursdays, and Saturdays.

2. On designated days migratory waterfowl will be hunted with 12-gage shotguns using iron shot provided.

3. Applications for blind reservations received no later than September 23, will be accepted. Reservations for blinds, for hunting through November 20, will be selected by public drawing. Successful applicants must appear in person at the refuge waterfowl check station prior to 1 hour before legal shooting time on the date reserved. Unreserved and forfeited blinds will be awarded by a drawing on the morning of the hunt to hunters without reservations.

4. The first three Saturdays (and Sundays if necessary) of the season will be reserved for the Young Waterfowler's Training Program hunt. A brochure describing this program is also available.

5. Loaded guns are not permitted outside the blind except when in pursuit of a crippled bird.

6. Hunters must provide a minimum of six duck decoys and will be limited to 10 shells each, with shot size no larger than No. 2.

7. All hunting ends each hunting day at 12 noon local time.

8. A user fee of $2 per blind will be charged.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

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

AUGUST 28, 1972.

[FR Doc.72-15248 Filed 9-7-72;8:50 am]

PART 32—HUNTING

Alamosa National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-8-72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

COLORADO

ALAMOSA NATIONAL WILDLIFE REFUGE

The public hunting of rabbits, skunk, badger, raccoon, coyote, bobcat, and feral cat on the Alamosa National Wildlife Refuge, Colo., is permitted from October 1 through October 11, 1972, inclusive and October 28, 1972, through January 14, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 3,267 acres, is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of rabbits, skunk, badger, raccoon, coyote, bobcat and feral cat subject to the following conditions:

(1) Hunting Hours—Shooting hours shall coincide with the most restrictive hours as those set by Federal and State proclamation for pheasant or migratory waterfowl.

(2) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(3) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

(4) Hunting with rifles and handguns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1973.

ROBERT L. DARNELL,
Refuge Manager, Alamosa National Wildlife Refuge, Alamosa, Colo.

[FR Doc.72-15243 Filed 9-7-72;8:49 am]

PART 32—HUNTING

Monte Vista National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-8-72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

The public hunting of rabbits, skunk, badger, raccoon, coyote, bobcat, and feral cat on the Monte Vista National Wildlife Refuge, Colo., is permitted from October 1, 1972, through October 11, 1972, inclusive, and October 28, 1972 through January 14, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 5,314 acres is delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of rabbits, skunks, badger, raccoon, coyote, bobcat, and feral cat, subject to the following special conditions:

(1) On opening day, October 1, and on all Thursdays, and Saturdays thereafter, during the 1972–73 season, hunters must register at the refuge office before entering the hunting area at one of the six designated parking areas. Upon completion of the day's hunt the hunter must return to the refuge office to complete a questionnaire regarding the hunt.

(2) The first 150 hunters registered on opening day will be issued 25 "iron shot" shells. Hunters not in the first 150 must furnish their own shells, limited to 25 in number. On future Thursdays and Saturdays, "iron shot" days, thereafter, hunters will be limited to 25 "iron shot" shells per hunt.

(3) On other than "iron shot days" hunters will be permitted to use weapons and shells in accordance with State and Federal regulations. They may also enter the hunting area without checking in or out at the refuge office, but entry to the hunting area will be restricted to designated parking areas.

(4) In the event that the supply of "iron shot" shells is exhausted at some time during the migratory bird season, hunting will then be authorized on all remaining days without checking in or out at the refuge office and with legal weapons and shells as permitted by State and Federal regulations.

(5) Hunting Hours—Shooting hours shall coincide with the most restrictive hours as those set by Federal and State proclamation for migratory waterfowl, except during the pheasant season when they shall coincide with the hours set by State proclamation for the hunting of pheasants.

(6) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(7) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

(8) Hunting with rifles and handguns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 15, 1973.

CHARLES R. BRYANT,
Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Colo.

AUGUST 30, 1972.

[FR Doc.72-15244 Filed 9-7-72;8:49 am]

PART 32—HUNTING

Muscatatuck National Wildlife Refuge, Ind.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-8-72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

INDIANA

MUSCATATUCK NATIONAL WILDLIFE REFUGE

Public hunting of upland game (rabbit and quail only) on the Muscatatuck National Wildlife Refuge, Ind., is permitted only on the area designated by signs as open to hunting on the southeast corner of the refuge. This area, comprising 1,320 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of rabbit and quail.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1973.

CHARLES E. SCHEFFE,
Refuge Manager, Muscatatuck National Wildlife Refuge, Seymour, Ind.

AUGUST 30, 1972.

[FR Doc. 72-15246 Filed 9-7-72;8:49 am]

PART 32—HUNTING

Des Lacs National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-8-72).

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

NORTH DAKOTA

DES LACS NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Des Lacs National Wildlife Refuge, N. Dak., is permitted only on the area designated by signs as open to hunting. This open area, comprising 17,740 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions.

(1) Hunting is permitted from 12 noon to sunset November 10 and from sunrise to sunset November 11, 1972, through November 19, 1972.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through November 19, 1972.

JAMES E. FRATES,
Refuge Manager, Des Lacs National Wildlife Refuge, Kenmare, N. Dak.

AUGUST 30, 1972.

[FR Doc.72-15273 Filed 9-7-72;8:53 am]

PART 32—HUNTING

Shiawassee National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-8-72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MICHIGAN

SHIAWASSEE NATIONAL WILDLIFE REFUGE

Public hunting of deer with bow and arrow is permitted on the entire refuge area from 6 a.m. to 7 p.m. each day from December 1, 1972, through December 31, 1972, only.

Hunting shall be in accordance with all State regulations covering the hunting of deer, subject to the following conditions:

(1) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

(2) Bow and arrow hunting will be by valid Federal permit only from December 1, 1972, through December 15, 1972. No permit will be required from December 16, 1972, through December 31, 1972.

(3) Applications for bow and arrow hunting permit must be received at the refuge office on or before October 31, 1972.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

ROBERT H. TIMMERMAN,
Refuge Manager, Shiawassee National Wildlife Refuge, Saginaw, Mich.

AUGUST 30, 1972.

[FR Doc.72-15247 Filed 9-7-72;8:50 a.m.]

PART 32—HUNTING

Lostwood National Wildlife Refuge, N. Dak.

The following special regulations are issued and effective on date of publication in the FEDERAL REGISTER (9–8–72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NORTH DAKOTA

LOSTWOOD NATIONAL WILDLIFE REFUGE

Public hunting of sharp-tailed grouse and Hungarian partridge on the Lostwood National Wildlife Refuge, N. Dak., is permitted only on that area designated by signs as open to hunting during the period September 16 through December 31, 1972. The open area, comprising 4,720 acres during the period September 16 through November 19 and 26,101 acres during the period November 20 through December 31, 1972, is delineated on maps available at the refuge headquarters, Lostwood, N. Dak., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations and the following special condition:

1. Vehicle travel is restricted to public highways and the refuge entrance road from State Highway No. 8 to refuge headquarters. All other refuge roads and trails are closed to vehicles.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1973.

RALPH W. WEIER,
Refuge Manager, Lostwood National Wildlife Refuge, Lostwood, N. Dak.

AUGUST 23, 1972.

[FR Doc.72–15271 Filed 9–7–72;8:53 am]

PART 32—HUNTING

Lostwood National Wildlife Refuge, N. Dak.

The following special regulations are issued and effective on date of publication in the FEDERAL REGISTER (9–8–72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NORTH DAKOTA

LOSTWOOD NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Lostwood National Wildlife Refuge, N. Dak., is permitted only on the area designated by signs as open to hunting during the period November 10 through 19, 1972. This open area, comprising 25,300 acres, is delineated on a map available at the refuge headquarters, Lostwood, N. Dak., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations and the following special conditions:

1. Vehicle travel is restricted to public highways and the refuge entrance road from State Highway No. 8 to refuge headquarters. All other roads and trails are closed to vehicles.

2. A 1 square mile area around the headquarters complex will be closed to hunting and marked by "Closed Area" signs.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1973.

RALPH W. WEIER,
Refuge Manager, Lostwood National Wildlife Refuge, Lostwood, N. Dak.

AUGUST 23, 1972.

[FR Doc.72–15272 Filed 9–7–72; 8:53 am]

Proposed Rule Making

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 19547; FCC 72-629]

SPACE TELECOMMUNICATION

Proposed Frequency Allocations and Radio Treaty Matters

Correction

In F.R. Doc. 72-11900 appearing at page 15714 in the issue for Friday, August 4, 1972, on page 15731 new headings should be inserted between the third and fourth blocks from the top as follows:

1. In Columns 1, 3, 5, and 7 insert "Band (GHz)".

2. In Column 10 insert "Frequency (GHz)".

[47 CFR Part 25]

[Docket No. 16495]

ESTABLISHMENT OF DOMESTIC COMMUNICATIONS-SATELLITE FACILITIES BY NONGOVERNMENTAL ENTITIES

Extension of Time for Filing Comments

Order. In the matter of establishment of domestic communications-satellite facilities by nongovernmental entities, Docket No. 16495.

1. By letter dated August 24, 1972, MCI Lockheed Satellite Corp. (MCI Lockheed) requested a further extension until September 7, 1972, of the time for filing responses to the pending petitions for reconsideration of the "Second Report and Order" in this proceeding. In support of this request MCI Lockheed states that it has engaged in discussions with various other parties to the proceeding in an attempt to limit the issues and may achieve satisfactory results if a further period of time can be allowed to complete certain negotiations. MCI Lockheed further states that the requested extension will not substantially delay, and may in fact expedite, a final Commission decision. MCI Lockheed's request is concurred in by the Communications Satellite Corp.

2. In light of the foregoing, it appears that good cause has been shown for additional time to file responsive pleadings. Pursuant to the order adopted herein on August 24, 1972, partially granting an extension requested by the State of Alaska, the present due dates are September 1, 1972, for responses and September 11, 1972, for replies. The condition to that order, requiring the State of Alaska to serve copies of its comments on those who have sought reconsideration by September 1, 1972, is deleted.

3. *Accordingly, it is ordered,* Pursuant to § 0.303 of the Commission's rules and regulations, that the time for filing responses to the petitions for reconsideration is extended to September 7, 1972, and the time for filing replies to such responses is extended to September 18, 1972.

Adopted: August 29, 1972.

Released: August 30, 1972.

[SEAL] BERNARD STRASSBURG,
Chief, Common Carrier Bureau.

[FR Doc.72-15264 Filed 9-7-72;8:52 am]

[47 CFR Part 73]

[Docket No. 19551]

FM BROADCAST STATIONS

Table of Assignments in Certain Cities in Georgia, Mississippi, and Arkansas; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments,* FM broadcast stations. (Dublin and Atlanta, Ga.; Starkville, Miss.; Helena, Ark.), Docket No. 19551, RM-1821, RM-1923, RM-1864, RM-1978.

1. The notice of proposed rule making in the above-entitled proceeding was adopted July 19, 1972, and published in the FEDERAL REGISTER July 29, 1972, 37 F.R. 15320. The dates for filing comments and reply comments are September 1, 1972, and September 11, 1972, respectively.

2. On August 24, 1972, Ruston Broadcasting Co. (Ruston) filed a request for an extension of time to and including October 1, 1972, for the filing of comments and to and including October 11, 1972, for the filing of reply comments. Ruston states that because of the complexity of the proposals involved, a substantial amount of time must be devoted to preparing meaningful 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 comments in the above docket is extended to and including October 1, and to October 11, 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 28, 1972.

Released: August 30, 1972.

[SEAL] HAROLD L. KASSENS,
Acting Chief,
Broadcast Bureau.

[FR Doc.72-15265 Filed 9-7-72;8:52 am]

[47 CFR Part 73]

[Docket No. 19535]

FM BROADCAST STATIONS

Table of Assignments in Certain Cities in Arkansas, Colorado, and Indiana; Order Extending Time for Filing 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, published in the FEDERAL REGISTER on July 12, 1972 (37 F.R. 13643). The time for filing comments has expired. The date for filing reply comments is August 24, 1972.

2. On August 23, 1972, Edward J. Patrick, proponent in the above-captioned proceeding, filed a petition for extension of time to file reply comments. Counsel for Mr. Patrick states that in a public notice released August 4, 1972, the Commission reported the filing of a counterproposal in this proceeding. He further states he had to order copies of the counterproposal through Cooper-Trent which were then forwarded to Mr. Patrick in Denver, Colo. He also adds that preliminary discussions already have taken place between himself and Mr. Patrick concerning the merits of the counterproposal but he needs the additional time in order to prepare meaningful comments.

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 reply comments in the above docket (RM-1938 only) is extended to and including September 25, 1972.

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 25, 1972.

Released: August 28, 1972.

[SEAL] HAROLD L. KASSENS,
Acting Chief,
Broadcast Bureau.

[FR Doc.72-15266 Filed 9-7-72;8:52 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 741]

REAL ESTATE LOAN ACTIVITIES

Nondiscrimination Requirements

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 209, 85 Stat. 1015, Public Law 91–468 and pursuant to Public Law 90–284, 82 Stat. 81, proposes to add a new § 741.6 to Part 741 (12 CFR Part 741) as set forth below.

Section 805 of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3605) makes it unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms and conditions of such loan because of his race, color, religion, or national origin.

Recognizing that increased public awareness of nondiscrimination requirements and the availability of complaint procedures are necessary for effective implementation of the Civil Rights Act's provision mentioned herein, the Administrator is considering the adoption of the minimum requirements set forth below for all federally insured credit unions.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rule making to the Administrator, National Credit Union Administration, Washington, D.C. 20456, to be received not later than October 13, 1972.

HERMAN NICKERSON, Jr.,
Administrator.

AUGUST 31, 1972.

§ 741.6 Nondiscrimination requirements.

(a) *Advertising notice of nondiscrimination compliance.* Every federally insured credit union which directly or through third parties engages in any form of advertising of loans for the purpose of purchasing, improving, repairing, or maintaining a dwelling shall prominently indicate in such advertisements, in a manner appropriate to the advertising media and format utilized, that such credit union makes such loans without regard to race, color, religion, or national origin. No words, phrases, symbols, directions, forms, models, or other means shall be used to express, imply, or suggest a discriminatory preference or policy of exclusion in violation of the provisions of title VIII of the Civil Rights Act of 1968. Written advertisements relating to such loans shall include a facsimile of the logotype appearing in paragraph (c) of this section in order to increase public recognition of the nondiscrimination requirements and guarantees of the aforementioned title VIII.

(b) *Lobby notice of nondiscrimination compliance.* Every federally insured credit union which engages in extending loans for the purpose of purchasing, improving, repairing, or maintaining a dwelling shall conspicuously display in the public lobby of such credit union and in the public area of each office where such loans are made, in a manner so as to be clearly visible to the general public entering such lobby or area, a notice that incorporates a facsimile of the logotype appearing in paragraph (c) of this section, and attests to such credit union's policy of compliance with the nondiscrimination requirements of title VIII of the Civil Rights Act of 1968. Such notice shall include the address of the Department of Housing and Urban Development as the agency to be notified concerning any complaint alleging a violation of the nondiscrimination provisions of the aforementioned title VIII.

(c) *Logotype and notice of nondiscrimination compliance.* The logotype and text of the notice required in paragraphs (a) and (b) of this section shall be as follows:

EQUAL HOUSING
LENDER

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 of 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 SEND A COMPLAINT TO:

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

or call your local HUD or FHA office.

[FR Doc.72-15124 Filed 9-7-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1065]

[Docket No. AO–86–A27]

MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

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

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Nebraska-Western Iowa marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Omaha, Nebr., pursuant to notice thereof which was issued February 28, 1972 (37 F.R. 4352).

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

1. Diversion of producer milk.
2. Deletion of takeout-payback (Louisville) seasonal production incentive plan.
3. Need for emergency action with respect to issue No. 2.
4. Adoption of a Class I base plan.
5. Optional handler status for a cooperative on its deliveries of member milk to pool plants.
6. Defining milk received at a pool plant from a cooperative bulk tank handler as "producer milk" for which the plant operator would be obligated at the uniform price.
7. Miscellaneous:

(a) Adoption of more specific terminology in referring to health authorities and Grade A product.

(b) Redefining "route disposition."

(c) Computation of uniform price: Handlers' reports to be included.

(d) Adoption of appropriate terminology for partial payments, and conforming changes where necessary.

Issue No. 1 was dealt with in a decision issued June 5, 1972 (37 F.R. 11482). This decision deals with the remaining issues.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

2. *Louisville plan.* The Louisville seasonal production incentive plan should be deleted from the order.

This plan was provided originally to encourage milk producers to reduce seasonal changes in their milk production. This was to be accomplished by withholding part of the money due producers for milk deliveries in the April–June period and paying out such money to producers on deliveries of milk in September, October, and November.

For several years, however, producer organizations in the market have not favored use of the plan, and it has been rendered inoperative through suspension for the years 1970, 1971, and 1972 (37 F.R. 6491).

Even without the plan in operation, there is relatively small seasonal variation in milk production in this market. During April, May, and June 1971, production (including estimated overdiversions) was approximately 108 percent of production in the September-November period of the same year.

In these circumstances there is no need to continue the Louisville plan provisions in the order. Further, the Class I base plan as proposed to be adopted herein will provide incentive to producers to keep seasonal variation of production to a minimum. The Louisville plan provisions accordingly are deleted from the order.

3. *Emergency action for deletion of the Louisville plan.* In view of the suspension order issued March 24, 1972, previously cited, making the Louisville plan inoperative for 1972, there is sufficient time to consider under regular procedure the proposal to revoke the Louisville plan. An emergency decision therefore is not necessary.

4. *Adoption of a Class I base plan.* Producers supplying plants regulated by the Nebraska-Western Iowa Federal order should have the opportunity to decide whether the proceeds from the sale of their milk should be distributed among them by means of a Class I base plan issued in conformity with the Agricultural Act of 1970.

A witness for a cooperative organization representing a majority of the producers on the Nebraska-Western Iowa market testified that member producers generally favor the adoption of a Class I base plan. The plan is favored also by another cooperative. Producer members of the two cooperative associations comprise nearly all of the producers serving the market.

The plan, proponent stated, will allow the individual producer to adjust his production in line with a specific quantity of Class I disposition in the market allocated to him as his Class I base. He will be better able to adjust production in relation to market Class I disposition than under the present blend price system because his returns can be relatively free of the influence of excess production by other producers.

Testimony in opposition to the plan was presented by organizations that do not presently have producer members on this market. A witness for a dairy farmer's group with membership in the North Central States opposed the plan on grounds that it would impede the entry of new plants and dairy farmers into this market, limit the effectiveness of the order pricing to assure an adequate supply, and add administrative expense. A cooperative association not marketing milk under this order also opposed, in a brief, the base plan as (1) ineffectual and administratively unenforceable, and (2) a barrier to more economic and efficient milk production and distribution.

Subsequent findings explain the method by which the plan adopted herein provides opportunity for dairy farmers not now producers to qualify for participation under the plan upon becoming producers and allows for adjustment of bases to changing supply and demand conditions. The objections are considered to be substantially met by the provisions adopted.

THE PURPOSE OF THE CLASS I BASE PLAN

The purpose of the Class I base plan is to provide a method for each producer supplying the Nebraska-western Iowa market to adjust his production individually in accordance with the Class I needs of the market without necessarily reducing his participation in the Class I sales of the market.

The Class I base assigned to each producer will represent a share of the total Class I disposition of the market. Such base assignment will be in proportion to the producer's production history during the representative period. To provide a reserve over the level of Class I disposition in the market, the total of all producers' Class I bases assigned each year will be 120 percent of Class I disposition of handlers in the preceding year.

The proposed base plan is designed also to adapt to changing supply-demand conditions. Producer's bases will be updated each year to reflect changes in the volume of Class I milk disposed of in the market and changes in the volume of milk produced by individual producers. Further, new producers will be able to come on the market and earn, over a reasonable period of time, bases comparable to those of other producers. Also, any producer already on the market who desires to increase his production and thus earn additional base may do so.

DESCRIPTION OF PLAN

A Class I base will be assigned on the effective date of the plan to each producer for whom a production history base is computed.

Production history bases will be computed from milk deliveries to plants in a representative period. The representative period adopted herein for use in the initial determination of production history base is the 2-year period 1971 and 1972.

The proponent cooperative association requested that a 3-year period be used in the initial determination of production history. Under proponent's plan, the higher year of the first 2 years' production of each producer would be averaged with the most recent year in determining a producer's initial production history base.

Proponent's representative, in support of this procedure, stated that nearly all dairymen from time to time experience production problems on their farms, such as disease, poor quality of feed, and breeding problems, that could result in lower milk production for an extended period of time. The averaging of daily milk deliveries during the most recent year of the proposed 3-year representative period with the higher of average daily deliveries during the 2 earlier years, this witness stated, would provide opportunity to delete from production history an abnormally low production year and would tend to promote equity among producers in establishing base.

Under proponent's proposal, therefore, a certain group of producers (those in production during the first of the 3 years) would be provided alternative periods of production history for use in establishing initial production history base. Similar alternatives are not proposed for producers who were not in production during the first year of the proposed representative period but who nevertheless began production shortly thereafter and also might have experienced unusual production problems.

There is inadequate basis in the record to support the proposal that producers who were in production during the first year of a 3 year period should be treated differently in establishing initial production history base from producers who were not in production during such year but nevertheless came on the market shortly thereafter.

Situations may exist in which some producers are scaling down their production for one reason or another or are phasing out their dairy enterprises entirely. The proponent's plan would increase the likelihood of producers receiving a base in excess of their actual ability to supply the fluid market. This would not be in the best interests of producers who are continuing to supply the market and would not promote orderly marketing.

Using deliveries during 1971 and 1972 will be more representative of the level of production a producer may be expected to deliver under the plan since most producers in this market, in fact, have been increasing their production.

Consideration was given on the record also to use of a 1-year period. A single year period, as pointed out by the proponent cooperative could be a time of adverse production conditions for some producers. Such producers could claim the plan is inequitable for this reason. The 2-year period adopted herein will meet the objection of the cooperative to a 1-year period.

The production history base of a producer will be his average daily deliveries of milk during the representative period, except for producers whose delivery periods are not sufficient for determination of a full production history base. This distinction between producers with longer production history and those who have been in production for only a brief period agrees generally with the scheme proposed by the cooperative.

The cooperative proposed that dairy farmers whose production began at any time before June 1, 1972, would receive a production history base equal to their average daily deliveries during the period beginning with their first delivery through the end of the representative period. Producers beginning on or after June 1, 1972, however, would have production history bases reduced by specified percentages.

Specifically the cooperative proposed that producers beginning on or after June 1 but before September 1, 1972, would be assigned production history bases equal to 80 percent of their average daily deliveries, while those beginning on or after September 1, 1972, would be assigned production history bases equal to 50 percent of average daily deliveries. These dates, in the cooperative proposal, were related to a suggested effective date of January 1, 1973. Thus, dairy farmers whose production began as much as 7 months before the effective date would receive full credit for their average daily deliveries in computation of production history and those with lesser periods of production would have reduced bases, as indicated.

At the hearing proponent stated that February 1, 1973, would be an acceptable effective date if it would implement using calendar years for the representative period rather than a period ending with August 1972, as specified in the hearing notice.

Since a February 1, 1973, effective date will accommodate use of calendar years for production history, it is used herein as a tentative effective date. Data for the most recent calendar year would be available for computation of base effective on February 1 each year.

The computation of production histories as proposed by the cooperative is accordingly modified to fit a February 1, 1973, effective date. The same percentages (as proposed) will be applied in the calculation of production history bases for producers whose deliveries began later than 7 months before the effective date.

Equitable apportionment of bases to producers should not allow the same amount of base for production in a relatively brief period as the base allowed when earned by producers from deliveries during the full representative period. Further, producers whose entire period of deliveries is within the few months preceding the effective date will have had opportunity to gauge their operations in contemplation that a base plan will be operative. For these reasons a graduated reduction in production history bases calculated from only the most recent months preceding the effective date of the plan is necessary to preserve equity among all producers.

For a producer who was in production for 7 months before the effective date there are only 6 months of production data since monthly data are available only after several days following the month. Accordingly, 6 months of deliveries will be the minimum period for which the average daily deliveries of the producer will be his production history base. Bases assigned to producers with less than 6 production months should be reduced by multiplying the average daily deliveries by the 80-percent factor, and bases assigned to producers beginning October 1, 1972, or later should be the average daily deliveries multiplied by the 50 percent factor.

Milk deliveries by a dairy farmer during the representative period to both pool plants and nonpool plants will be used to compute production history base.

An interruption of 90 days or more in deliveries will cause a break in production history. As noted elsewhere in this decision, such an interruption after the effective date by a baseholding producer will cause forfeiture of his base and require a waiting period prior to the beginning of a new production history period.

Interruption of deliveries due to storm conditions also will require a modification of the computation of production history. While proponent requested that 15 days in any one calendar year be allowed as interruption for storm conditions, an allowance of 8 days of nondelivery (8 days of production) per year should be adequate for most occurrences where weather prevents milk delivery by a producer. If, under unusual circumstances, storm conditions prevent delivery by a producer for more than 8 days' production then the matter may be considered for relief under the hardship provisions. In periods of 6 months or less the allowed days of nondelivery for storm conditions will be four.

When a producer is prevented by storm conditions from delivering milk of his production, the calculation of his average daily deliveries will be modified by excluding from the divisor the following days of nondelivery.

Production history prior to the effective date will not be interrupted by an intrafamily transfer of production facilities. After the effective date it will be possible for production facilities to be transferred to a member of the family while the Class I base is transferred to a third party. In the latter case, the person continuing production with the same facilities will be treated as a new producer. With this exception milk deliveries by the previous owner will be treated as if made by the transferee in the case of intrafamily transfers. Intrafamily transfers include transfers to husband, wife, son, daughter, father, mother, sister, brother, son-in-law, daughter-in-law and to the estate of the baseholder.

The average daily deliveries of a producer during any specified period will be determined by dividing the quantity of milk delivered by the producer in the applicable period by the appropriate number of days. The number of days will be the days of production delivered but not less than the calendar days beginning with the first day of delivery and to the end of the period, excluding allowed days of nondelivery because of storm conditions. In this market, milk of a dairy farmer is picked up by a hauler normally on an every-other-day basis, and thus deliveries may include more days of production than the number of days in such period. The division by the number of days' production delivered will provide an equitable basis of computation for those producers whose average deliveries cover a relatively brief period.

For computations of production history bases, including those established after the plan becomes operative, it is desirable to define more generally the periods used for determination of each producer's production history base. A "production history period" is defined as the period during which milk deliveries used in the computation of production history base are made by the producer. Production history periods are designated as 1-year, 2-year or 3-year production history periods, depending on whether the deliveries of the producer are made in 1, 2, or 3 calendar years.

For purposes of base computation, average daily deliveries in a portion of a calendar year beginning on or before July 1 and through the end of the year will be given the same credit towards production history base as average deliveries of a producer who delivered the full year. As noted elsewhere, average daily deliveries of a dairy farmer starting production after July 1 are subject to a specified reduction in computation of production history base. Accordingly, a portion of any calendar year beginning on or before July 1 and continuing through December 31 will be considered to be a 1-year production history period.

Average daily deliveries of a producer during a 2- or 3-year production history period will be obtained by computing first the average daily deliveries in each calendar year (or portion of a year) and then dividing the sum of such averages by the number of periods (years or portions of years).

NEW PRODUCERS

The plan provides that after the effective date dairy farmers who enter the market as new producers may obtain an assignment of Class I base and production history base in amounts and at times related to the circumstances of entry into the market.

A dairy farmer who becomes a producer when a plant to which he delivers his milk becomes a pool plant will normally be assigned a base effective at the time he becomes a producer. His Class I and production history bases will be computed as if his deliveries prior to becoming a producer were deliveries to a pool plant. Assignment of base will not be immediate, however, if the producer had been on the market previously and had disposed of his base. In this circumstance he would not be eligible for base assignment until the 15th month after the sale of base. Also, as noted below, a producer with less than 1 year of production history would receive a later base assignment.

Another type of new producer is the dairy farmer who comes on the market as an individual and has a history of deliveries of milk to nonpool plants. If the producer has at least a 1-year production history period he will be assigned production history base and Class I base as if his deliveries to the nonpool plants had been deliveries to a pool plant, except that (1) such base assignment will be effective on the first day of the second month following the month in which the producer began deliveries to a pool plant, and (2) the production history base so computed will not exceed the average daily deliveries of such producer during the first 2 months on the market from the same production facilities from which he marketed milk during his production history period.

The act provides that a producer entering the market under these circumstances will be assigned base effective within 90 days after becoming a producer. Proponent requested, however, that assignment of base be on the first day of the third month following the month in which the producer commenced deliveries to a pool plant. A producer beginning deliveries on June 1 would thus be assigned base on September 1 or 92 days after the first delivery. The assignment of base on the first day of the second month following the month of first delivery, as here adopted, will avoid exceeding the statutory limit of 90 days prior to assignment.

For those producers who enter the market with less than 1 year of production history a production history base will be assigned equal to 50 percent of the average daily milk deliveries of the producer during his first 2 calendar months on the market. This production history base will be effective on the first day of the second month following the month in which the producer began deliveries. If base is acquired by transfer, however, the producer's effective production history base will be the larger of (1) the computation previously described, or (2) the production history base acquired by transfer.

A dairy farmer is not entitled to add to a purchased base the base allotted to him computed from only 2 months' production. The latter base, because of the brief period from which computed, does not have similar status with bases computed from 6 months or more of deliveries in representing the ability of the producer to furnish milk to the market.

Dairy farmers who previously held base but have either forfeited or disposed of such base will be treated as new producers when they again become eligible for assignment of base computed from their own production. The provisions specify that after forfeiting or disposing of all his base 12 months must elapse before a producer's milk deliveries are considered for establishment of a new production history and Class I base. His base assignment will be effective on the first day of the second month following the first month in which he delivers milk eligible for production history. For example, if a producer forfeits his base in June 1973, his base assignment would be made, at earliest, on September 1, 1974. The reasons for such a waiting period are discussed in connection with base rules.

A dairy farmer who has forfeited base would be entitled also to become a baseholder, without the waiting period, through purchase of base.

UPDATING OF PRODUCTION HISTORY BASES

After the plan becomes effective, adjustment will be made each year in the production history and Class I bases assigned to producers. The most recent year's production data will be used for updating on February 1 each year. Predicated on an effective date of February 1, 1973, the first updating of producer bases will occur on February 1, 1974.

At the time of the first updating, the year 1973 will be added to the production history period of each producer who has an effective base assignment. Thus, producers who on the effective date of the plan had a 2-year production history period will have a 3-year production history period on February 1, 1974. In subsequent updatings for such producers the earliest year will be dropped and the most recent year included, thus resulting in a 3-year rolling average.

Similarly, for a producer who originally had a 1-year production history period, successive years will be added until he has a 3-year production history period.

The updating process allows a producer to obtain an increase in his production history base through any increase in the level of his production over his existing base. On the other hand if his production does not increase, he can retain his existing production history base.

The updating procedure also will reflect changes in a producer's base due to purchase or disposal of Class I base. Other modifications of his Class I base because of underdelivery or hardship also will affect the updating.

Adjustment of a producer's Class I base for underdelivery will occur if his average daily milk deliveries in the preceding calendar year are less than 90 percent of the Class I base assigned to the producer on February 1 of the preceding year as adjusted for hardship and net disposal of base by transfer. The reduction of Class I base will be the difference between such average daily milk deliveries and the Class I base as so adjusted.

Although in the record proponent opposed adjustment for underdelivery, it is concluded that an adjustment of this nature is necessary if the Class I base program is to operate effectively and be in

the public interest. Similar adjustments are provided under the Puget Sound and Georgia orders, the two markets which currently provide for a Class I base plan. The Class I base assigned to a producer under this program represents the extent to which reliance is placed on the producer to maintain an adequate and regular supply for the Class I market. An adjustment, therefore, is warranted that will reduce a producer's Class I base to the extent that he fails to deliver a quantity equal to his allotted share of the market. A 10-percent tolerance is provided, however, so that a producer's base will not be reduced if he fails to maintain deliveries equal to his base but delivers at least 90 percent of base.

The updating procedure on February 1, 1974, will apply to every producer who has at least 1 year of production history. As indicated earlier, a producer who delivered milk for the period July 1 through December 31, 1973, will be considered as having 1 year of production history.

The updating computation on February 1, 1974, will be as follows: The initial production history base assigned to the producer on the effective date of the plan, as adjusted for transfers, underdelivery or hardship, will be multiplied by two; to this will be added the average daily deliveries during 1973 and the sum will be divided by three. If the result of such computation is less than the initial production history base assigned to such producer on the effective date, adjusted for transfers, underdelivery or hardship, then such initial production history base as adjusted shall be the updated production history base.

For producers who entered the market during the first year of the plan their production history bases will be updated also on February 1, 1974, provided they have 1 year of production history.

At the second updating of bases on February 1, 1975, somewhat different calculations will be needed than in the first updating. Separate calculations will be made for producers with 1-year, 2-year and 3-year production history periods.

It will be necessary for purposes of updating to make certain adjustments in a producer's production history for previous years if he disposes of some of his base. An adjustment will be made in the producer's average daily deliveries in each year prior to such disposition of base. Such earlier production that is represented by the Class I base disposed of should not again be used in assignment of new Class I base or production history base. Sale of Class I base, therefore, is regarded as voiding an amount of previous production that had been used in the computation of the production history base that was transferred. It is necessary for this purpose to treat a base transfer in any January as if transferred in the preceding December in order that adjustment of deliveries in preceding years will be in the years preceding such December.

The average daily deliveries will be reduced also in the same manner for any downward adjustment of the producers' Class I base due to underdelivery. Such reduction of average deliveries will apply in the years preceding the year of underdelivery.

These reductions in average daily deliveries will be in proportion to the reduction in Class I base due to transfer or underdelivery.

If the entire effect of such adjustments is a reduction greater than the respective average daily deliveries, then the resulting amount after adjustment will be zero, and the period for which a zero amount is determined will not be regarded as a production history period. Only years following such period would be included in the calculation of the production history base of the producer.

Subject to these adjustments, the average daily deliveries in each of the years of a 3-year production history period will be combined and divided by three to obtain an average for the 3-year period. If the result is less than the production history base assigned to such producer on the preceding February 1 after adjustment for change in base because of transfers, underdelivery and hardship, then such previously assigned production history base, as adjusted, shall be the updated production history base.

For each producer who on February 1, 1975, has a 2-year production history period, and has not purchased base, the updating computation would require adjustment of average daily deliveries in the first year for disposal of Class I base by the producer and for underdelivery. The sum of (1) such adjusted average daily deliveries, (2) the average daily deliveries in the most recent year, and (3) the initial production history base assigned to such producer as a new producer, adjusted for transfers, underdelivery or hardship, will be divided by three. If such result is less than the production history base assigned to such producer on the preceding February 1 after adjustment for transfers, underdelivery and hardship, then such previously assigned production history base, as adjusted, shall be the updated production history base.

A producer with a 2-year production history period may have acquired base by transfer at any time during the 2-year period or before such period. Regardless of the time of acquisition of base by transfer, the computation will compare the average daily milk deliveries of the producer during the most recent year with the previously assigned production history base as adjusted for transfers, underdelivery, and hardship. The effect of the computation will be to increase the producer's base one-third of any excess of average daily deliveries in the most recent year over his existing production history base.

The updating on February 1, 1975, for each producer who has a 1-year production history period will be as follows: The initial production history base of such producer will be subject to adjustment for transfer, underdelivery, or hardship. The initial production history base, so adjusted, multiplied by 2, plus the average daily milk deliveries of the producer in the most recent year, will be divided by 3. If such result is less than the initial production history base as adjusted for transfers, underdelivery, and hardship, then such initial base, as adjusted shall be the updated production history base.

ALLOCATION OF CLASS I BASES

On the effective date of this base plan the market administrator will assign a "Class I base" to each producer who has a production history base. On February 1, 1974, and on February 1 of each subsequent year the market administrator will update producers' Class I bases to reflect changes in Class I sales and production history bases.

The total of Class I bases to be assigned will exceed by 20 percent Class I disposition in the market in the preceding year. Such a reserve is needed because of seasonal and daily fluctuations in milk supply and Class I disposition.

A 20-percent reserve was supported by proponent cooperative association at the hearing. In testimony proponent stated that experience in recent years indicates a reserve of 20 percent is necessary to assure that at all times base milk will be sufficient for handlers' Class I dispositions.

The following Class I dispositions in the preceding calendar year will be included in the computation.

(1) Class I producer milk pursuant to § 1065.46;

(2) The Class I milk disposition of any plant that was a nonpool plant during part of the year and held pool plant status in December preceding the effective date, or February 1 on which the bases are computed; and

(3) The Class I sales of any person who was a producer-handler if such person were a producer in December preceding such February 1, or effective date.

The total of such Class I disposition will be multiplied by 120 percent and converted to a daily average by dividing by the number of days in the year.

The ratio of total Class I bases to total production histories will be expressed as a percentage, referred to as the "Class I base percentage." A producer's production history base multiplied by the Class I base percentage will be his Class I base.

Class I bases will be assigned also to new producers at the time they are issued production history bases. The Class I base percentage determined on the preceding February (or the effective date of the plan, whichever is most recent) will be applied to the production history base of the new producer (except as explained below) to determine his Class I base.

The Class I base of any producer having a production history period of less than 3 years who began milk deliveries after the effective date of the plan will be reduced by 20 percent for a period not to exceed 36 months from the beginning of such production history period. This 20 percent reduction will apply to base exclusive of any acquired by transfer.

In view of the current and anticipated supply-demand situation in the market, there is no need to provide an incentive for entry of new producers in substantial

numbers. During 1971, producer milk was about 163 percent of Class I sales of regulated handlers. Thus, the 20-percent reduction of bases for new producers, as authorized by the Act, is reasonable and will tend to facilitate operation of the base plan in this market.

BASE TRANSFERS

Proponent requested that transfer of base be permitted. Provisions for transfer of base under specified conditions are adopted.

A transfer of base will be defined to mean the disposal of Class I base and production history base by a transferor and the associated acquisition of Class I base and production history base by transferee. Disposal of base will mean disposal of Class I base and disposal of a proportionate amount of the production history base held by the transferor. Acquisition of base will mean the acquisition of Class I base and an amount of production history base, which is the quantity of Class I base acquired multiplied by the reciprocal of the Class I base percentage.

The Act specifies that bases may be transferable under terms and conditions that do not result in bases taking on an "unreasonable value."

The value of base obtainable by sale should not be such that it is an incentive for a producer to leave the market to become a producer for another market. If such incentive exists, the base plan could disrupt the regular supply for the market and promote a value of base for purposes other than supplying this market. These effects would be contrary to the purpose of the Act to promote orderly marketing, including assurance of a stable supply for the market.

For these reasons it is necessary to place limits on disposal of base by transfer. A producer will be able to dispose of his entire base if he is terminating his dairy enterprise, or transferring his base to another member of the immediate family. Transfer of the complete base will be possible also in case of death of the baseholder, or when a baseholder enters the armed services. A baseholder as an individual will be able to transfer his base to a partnership or corporation if it is established to the satisfaction of the market administrator that the transferor has a material management interest in the transferee's milk production enterprise.

Allowing an entire base to be disposed of only subject to the above restrictions will bring to a minimum any windfall gains a producer may obtain from changing his deliveries to another market.

While such restrictions on the transfer of entire bases are necessary to stabilize the operation of the program by reducing incentive for windfall gains, it is necessary also to allow relatively unrestricted transfers of base for producers desiring to adjust the scale of their operations.

As pointed out elsewhere in these findings, a specific purpose of transfer is to afford a flexibility in the operation of the plan such that producers desiring to increase or decrease their production may acquire or dispose of base to achieve the adjustment between their base and production.

For those producers desiring to decrease production, the plan should allow a producer to dispose of by transfer a portion of his base. This amount should not be so large as to give incentive for windfall gains as described previously but should be adequate to permit adjustments in scale of operations. The opportunity to dispose of as much as 30 percent of base in most circumstances will allow a reasonable adjustment for the producer wishing to scale down his operation although not intending to cease production.

For those producers desiring to increase production, base may be available to them by transfer from other producers who are leaving the dairy enterprise or who are disposing of the allowed percentage of their base. The restriction on the percentage of base transferred would apply to the quantity assigned to the producers on the preceding February 1 or later date of initial base assignment.

To the extent that bases may be acquired under these limitations, they provide an alternative to a new producer that may operate to the benefit of both such producer and other producers on the market. Instead of going through the steps of building a base from his own production, he will have opportunity to acquire base by transfer. Further, if the producer desires to aline his production closely with his Class I base he can do so from the beginning through acquisition of base. Otherwise he would go to the expense of first expanding his production to build the base and then reducing his operation in line with such base. Also, through purchase of base he will minimize the effect on other baseholders since he will not be adding to the total base on the market.

Certain features of the plan adopted herein should tend to prevent bases from taking on unreasonable value. First, the base plan allows new dairy farmers an alternative to buying base. They may establish a production history and thus earn a full base over a period of 3 years. Similarly, established producers may increase Class I base by building up a greater production history through their own production. Thus new producers and established producers are not limited to buying base.

Second, there will be a one-third lapse of transferred Class I base and the production history base associated therewith, with limited exceptions. To illustrate, a producer with a Class I base of 300 pounds and a production history base of 500 pounds may decide to transfer 150 pounds of his Class I base. The transferee producer actually will receive only 100 pounds of Class I base. The amount of production history base disposed of by transferor will be proportional to the change in his Class I base, specifically, 250 pounds. The production history acquired by transferee is 167 pounds.

The lapse of base will tend to prevent abuse of the transfer provisions and discourage some of the arrangements that otherwise might arise. As an example, without such a provision a producer whose production is temporarily below his base could transfer a portion of his Class I base to another producer with the understanding that the base will be transferred back to him once his production has come up to his base. The producers would be thereby manipulating the ownership of base for undue financial gain at the expense of other producers. They would be also defeating a purpose of the plan that is to encourage milk deliveries from each producer in line with his own ability to supply a portion of the Class I market. The one-third lapse of base will tend to discourage such arrangements. The one-third lapse will be to the advantage of baseholding producers generally, since each transfer will leave less production history be apportioned to Class I sales in the market. On each transfer of 150 pounds of base, 50 pounds will lapse, thereby increasing the Class I base percentage.

Various other rules will apply to transfers in the interest of integrity of the plan and administrative feasibility. It is provided that a producer may transfer his base in its entirety (subject to the prescribed rules), or portions of his base not less than 150 pounds.

The transfer of an entire base may be made effective on the day on which the transfer takes place if the market administrator receives an application for such transfer within 5 days after the transaction. It is likely that an entire base will be transferred in the case of the death of a producer or of the cessation of milk production. In the latter instances, the base transfer often is accompanied by a dispersal sale at which time the herd and base are disposed of simultaneously. When the entire herd is dispersed, the base of the selling producer should be transferable on the same date. However, if application for transfer is not made within the 5-day period, the transfer will become effective on the 1st day of the following month.

Partial transfers of base, in 150-pound multiples, will be effective the 1st day of the month following that in which the application for transfer is made to the market administrator.

In the case of jointly held bases the transfer of either the entire base or a portion thereof will be recognized only if the application for transfer is signed by each of the joint holders. Insofar as the order is concerned, the executor or trustee of an estate that holds a Class I base will be able to sign an application for transfer of such base.

A base established by two or more persons operating a dairy farm as joint owners or as a partnership may be divided between the owners. Such division will be effective on the 1st day of the month following receipt of written notification by the market administrator indicating the agreed division and signed by each baseholder (joint owner, partner, heir, executor, or trustee).

The question may arise as to whether formation of a joint enterprise followed

by division of the jointly held base can be used as a device for transfer while avoiding one-third lapse of any base transferred. For example, producer A who has a 1,000-pound base could join in partnership with producer B who has an 800-pound base. A short time later producer B could leave the partnership without base, thus in effect transferring his 800 pounds of Class I base to producer A.

Such a transfer should be subject to the one-third lapse, just as any other transfer, if the producer's participation in the joint enterprise is of temporary duration. In division of a jointly held base, therefore, the one-third lapse should apply to the extent that a transfer of base results.

Such one-third lapse will apply to the quantity by which an individual's share of base on leaving a joint enterprise is less than the base contributed by him to the enterprise not more than 12 months previous. This provision will discourage use of joint enterprise as a device for avoiding one-third lapse in transfers.

A base established by combining the bases of two or more producers for the purpose of joint enterprise to be operated by such producers will not be subject to the one-third lapse except as discussed above.

Proponent requested other restrictions of base transfers, specifically that a producer who transferred base would not be permitted for 3 months thereafter to receive base by transfer. Similarly, a producer who received base by transfer would not be permitted for 3 months thereafter to transfer base.

The proposed 3-month restriction on transfers is unnecessary in view of other provisions adopted. The one-third lapse of base will make frequent transfers of base uneconomical.

It is necessary however to require a 12-month waiting period after base assignment before the bases of certain producers may be transferred. This will apply to any base assigned to a dairy farmer as a new producer. Producers assigned bases during a temporary period on the market would likely sell such bases upon leaving, thus adding to the base pool and diluting the Class I utilization assignable to base of producers who remain. The 12-month waiting period thus will tend to assure that these producers are a regular part of the market supply before transfer of their bases may occur.

For instance, a group of new producers might receive bases when a plant becomes pooled because it obtains a short-term contract in this market. The producers shipping to the plant might sell their allocated bases if the plant loses pool status, thereby receiving a windfall gain—clearly not the purpose of this base plan.

In some instances, however, a dairy farmer who is delivering his milk to a plant that temporarily has pool status may have purchased base in addition to the base assigned to him when the plant became pooled. Such producer will be allowed to dispose of by transfer the quantity of Class I base which he had acquired by transfer. The 12-month waiting period would not apply to this quantity of base.

One type of new producer for whom the 12-month waiting period on transfers should apply is a producer who had been a producer-handler. Such person's status as a producer may be only temporary. As in the instance of other new producers who may have temporary status, disposal of newly assigned base should not be permitted. Particularly in the cases where the dairy farmer has still available plant facilities, he will be in a position to shift his status alternately to producer and producer-handler. Under these circumstances he should not be permitted to dispose of the base assigned to him each time he becomes a producer. Such a practice, if permitted, would add to the quantity of base on the market without a corresponding increase in Class I milk assignable to such base. It would also allow the producer-handler to profit at the expense of other dairy farmers in the market. The 12-month waiting period on transfers will substantially prevent such a practice.

ADDITIONAL BASE RULES

Besides the limitation on transfer of base, the plan requires that any producer becoming a producer-handler shall forfeit the maximum Class I base he held in the past 12 months as a producer. If a producer were free to sell his base while changing to producer-handler status, he would be diluting the Class I utilization for base-holding producers, since his Class I disposition as a producer-handler is exempt from pooling. He thus would be achieving a windfall gain at the expense of producers generally and simultaneously have exemption as a producer-handler.

To prevent such undue advantage the plan must require that a producer changing to producer-handler status shall forfeit the largest amount of Class I base held by him during the preceding 12 months. If he has disposed of his Class I base by transfer, the producer could not receive a producer-handler designation until the first day of the 12th month after disposition of his base. His alternative to such a waiting period will be to repurchase base equal to the largest amount he held in the preceding 12 months and then forfeit such base. Base forfeiture should also be required if producer-handler designation is to be issued to any member of such producer's family, any affiliate of such a producer, or any business unit of which such a producer is a part.

The definition of producer-handler should be modified to reflect the base forfeiture requirement for granting producer-handler status.

Even with the limitations previously described there may be some producers who seek to profit by disposition of their base while intending to reestablish base through a new dairy enterprise. The plan accordingly provides that a producer disposing of his entire base by transfer will not be eligible to receive a base as a new producer until the first day of the 15th month after the month in which such transfer was made.

Such a provision is reasonable since a dairy farmer who disposes of his entire Class I base by transfer does so with the knowledge that he is disposing of his priviligerules__
privilege to receive returns for his milk at the minimum base price under the order. He likewise would be aware that if he establishes a new dairy enterprise he would be eligible to participate under the plan only as a new producer.

It is necessary to insure that a producer who transfers his entire base shall not evade the prescribed waiting period. It is provided, therefore, that the restrictions set forth above shall apply to a person using the same production facilities as had been used by the transferor-producer if such person is a member of the immediate family of the transferor-producer (or is the transferor-producer under a different name). In such cases, continuation of production of milk by transferee producer using the same facilities would be considered as a continuation of the operation by the transferor-producer. This restriction shall apply also to the use of any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the transferor-producer has a financial interest, if such facility commences production after the effective date of the transfer or if the transferor-producer acquired his financial interest in such person later than 3 months prior to the effective date of the transfer.

The same restrictions should apply to a base-holding producer who ceases deliveries as a producer for a period of 90 days or more and then returns to the market. The person who thus forfeits his base and resumes production at a subsequent date is not a new producer in the same sense as other nonbaseholding dairy farmers. Therefore, he need not be assigned a base in the same manner or in the same time period as other dairy farmers becoming producers.

The Class I base plan should operate to encourage a steady and reliable supply for the market. It would not serve this purpose if a producer could freely cease deliveries to the market for an extended period, and then return with the privilege of receiving payment under the plan for Class I base milk as though he had not left the market. A producer who ceases deliveries for as long as 90 days cannot be regarded as a regular supplier for the market. Therefore, the Class I base and production history of such producer will be forfeited. The same 15-month waiting period as in the case of the producer who disposed of all his base should apply in the case of forfeiture before assignment of base as a new producer.

A producer who enters the military service will be excepted from the forfeiture rule. He will be allowed to retain his Class I base and production history until 1 year after he is discharged from active military duty.

A special rule will apply to forfeiture of Class I base when a producer leaves the market because the plant to which he delivers milk loses pool status. If such a dairy farmer continues delivering to the same plant as a nonpool plant, his base will be forfeited after 90 days of such delivery. There is the possibility, however, that such plant will regain pool status and dairy farmers delivering to the plant will again be producers. Such a dairy farmer will be entitled to base assignment again without the 15-month waiting period unless he is a producer who has disposed of his base.

A further rule is necessary with respect to the dairy farmer who has lost producer status because the plant to which he delivers has lost pool plant status. Such a nonproducer will not be permitted to dispose of base since his base corresponds to a portion of total Class I disposition which is no longer pooled. If he regains producer status by delivery to another plant that is a pool plant, he will be entitled to retain his previously held base if such reentry is less than 90 days after the preceding disqualification from producer status.

Proponent cooperative requested that the order permit a producer to retain his Class I base if his milk is marketed by the cooperative to a plant which had been a pool plant but became regulated by another order. Such exception to forfeiture was supported on the basis that in these circumstances the producer is leaving the market on an involuntary basis, perhaps without his knowledge, and that such producer, as a cooperative member, would continue to receive a blend based substantially on returns of the cooperative from this market.

Whether the farmer ceases deliveries on the market voluntarily or involuntarily, his production is not part of the supply for this market. The base plan is intended to apply to dairy farmers who constitute the regular, dependable supply for the market. In the instance described, since the dairy farmer's milk will be delivered to a plant regulated by another order, it will be part of the regular supply for the other market. Accordingly, no exception to the rule of forfeiture should be made for the situation described.

The Class I base plan should exclude any dairy farmer if any of his milk is delivered during the month other than as producer milk to a nonpool plant having Class I disposition. For instance, a producer might find it advantageous to market his milk in part to a nonpool plant which has Class I disposition, thereby obtaining a higher return than under the order. In so doing, however, the producer is committing his milk in part to another fluid market and is not fully engaged as a dependable part of the supply for this market. The producer is also avoiding the intended effect of the base plan, to provide incentive for a producer to adjust his production in relation to the Class I needs of the market.

On a larger scale, a cooperative may market milk of baseholding members to a Class I outlet not regulated by the order.

This arrangement could be employed to the extent that outside Class I sales will be made only on certain days of the week, but on days when such milk is not needed by the other market it could be returned to the Nebraska-Western Iowa pool. Other producers on the market then will bear the burden of surplus of such out-of-market sales.

For these reasons the base plan should not allow a dairy farmer to retain the benefits of the plan in any month when his milk in whole or in part is marketed outside of order regulation for Class I use. The producer definition should be modified to provide that a dairy farmer is not a producer under these conditions. The effect of the provision adopted is that the dairy farmer will have no base milk in the month if any of his milk is delivered as other than producer milk to a nonpool plant that has Class I disposition. Also, his production history will be reduced because of the exclusion of his milk deliveries during the month. The corresponding number of days, however, will not be excluded in the computation of average daily deliveries. The rule of forfeiture will apply if the dairy farmer loses producer status for a period of 90 days.

PROVISIONS FOR ALLEVIATION OF HARDSHIP AND INEQUITY

The Agricultural Act of 1970 requires that provision be made for the alleviation of hardship and inequity among producers. Therefore, certain administrative guidelines should be established for review of hardship claims and the alleviation of hardship and inequities to producers under the Class I base plan adopted herein.

Certain provisions are included in the order to define circumstances for which a producer may apply for relief. A producer may apply for adjustment to alleviate hardship or inequity if he feels his production history is not representative of his level of milk production because of conditions which are beyond his control (such as acts of God, disease, pesticide residue, and condemnation of milk). Conditions over which a producer could have exerted control through prudent precautionary measures are not cause for hardship adjustment. These conditions would include, for example, inability to obtain adequate labor, or equipment failure during the representative base period.

The producer would be responsible for filing a written request for review of any hardship condition or inequity affecting him. Such request would be submitted to the market administrator for review by the hardship committee. A claimed hardship or inequity would set forth the following: (1) Conditions that caused alleged hardship or inequity; (2) extent of relief or adjustment requested; (3) basis upon which the amount of adjustment requested was determined; and (4) reasons why the relief or adjustment should be granted. Such request must be filed within 45 days of the date on which Class I bases are issued, or of the occurrence to which it is related.

The market administrator would establish one or more "Producer Base Committees." A committee would consist of five producers appointed by the market administrator. The committee would review the requests for relief from hardship or inequity referred to it by the market administrator in a meeting called by the market administrator. The market administrator, or his designated representative, would be the recording secretary at such meeting. The committee decision must be endorsed by at least three of the five members to represent a committee quorum.

Producer Base Committee recommendations to deny any request would be final upon notification to the producer, subject only to appeal by such producer to the Director, Dairy Division within 45 days thereafter. Recommendations of the committee to grant a request, in whole or in part, would be transmitted to the Director, Dairy Division, and would become final unless vetoed by the Director within 15 days after transmitted.

The market administrator is authorized to reimburse committee members for their services at $30 per day, and for necessary travel and subsistence expenses incurred in carrying out their duties as committee members. Reimbursement to committee members would be from moneys collected under the administrative expense fund.

The moneys collected in the administrative fund are to pay for the necessary expenses incurred in the administration of the order. The statute expressly requires that provision be made for the relief of hardship and inequity among producers. It has been concluded that the review of petitions for such relief can be handled most effectively by a committee of producers. Hence, the expense associated with the operation of a Producer Base Committee is one incurred in the performance of an appropriate and necessary function of the order. Therefore, the order should provide that the necessary expenses incurred by the Producer Base Committee be paid from moneys collected pursuant to the administrative assessment.

UNIFORM PRICES FOR BASE MILK AND EXCESS MILK

Uniform prices to producers for base milk and excess milk will be computed each month. The price to producers who have no base will be the Class III price adjusted by the Class III butterfat differential. The uniform price for excess milk will be the Class III price unless the quantity of excess milk (and milk of producers who have no base) exceeds the Class III producer milk. In the latter case Class II milk and then Class I milk will be assigned, in that sequence, to excess milk.

Location adjustments will apply to the price of base milk according to the location of the plant where the milk is received from producers. Since some of a producer's milk may be diverted, and

thus may be subject to different location adjustment then when received at a pool plant, it will be necessary to prorate the producer's base milk to the quantities of his milk received at the various locations.

5. and 6. *Cooperative as handler for deliveries of member milk.* No change should be made in the definition of handler in the case of a cooperative association delivering milk of member producers from the farm to a pool plant in a tank truck owned or operated by, or under contract to, such cooperative association. Delivery of such milk to the plant should continue to be treated as an interhandler transfer of milk first received by the cooperative association as producer milk.

The order presently specifies that a cooperative association shall be a handler with respect to milk of its member producers delivered from the farm to a pool plant of another handler in a tank truck owned or operated by, or under contract to, such cooperative association. No evidence was presented at the hearing to modify the existing definition of handler in this respect or the interhandler nature of the transfer upon delivery to the plant. The proposals for the hearing bearing on these subjects were withdrawn by proponent at the hearing.

7. *Miscellaneous.* (a) Terminology for designation of health authority and Grade A product.

Order provisions specifying approval of plants or products by a health authority should specify such authority uniformly as "duly constituted health authority." Such term presently appears in § 1065.7 *Producer* but a different terminology ("appropriate health authority") is used in the definitions of "distributing plant" and "supply plant." The term "any health authority" is used in § 1065.12 *Pool plant.*

The term "duly constituted health authority" is commonly used in Federal milk orders in provisions where approval by a health authority of a plant or product is specified in a provision.

The term "duly constituted health authority" is sufficiently general to include any health authority empowered by Federal, State, city, or other governmental unit to approve milk for disposition for fluid consumption and dairy plants for the handling of such milk. The term "duly constituted health authority" accordingly should be used in each case in the order provisions where reference to health authority is made to eliminate possible confusion from using different terms in this regard.

Another instance of inadequate terminology, in § 1065.11 supply plant, is the phrase "for distribution in the marketing area under a Grade A label." The intent of the provision is to specify products that qualify as Grade A under health authority regulations. It is not necessary for this purpose to involve labeling requirements, if such exist. Further, the phrase cited might be interpreted as restricting approval to that given by health authorities in the marketing area. As indicated above, such restriction should not apply.

(b) Definition of "route disposition."

The order contains a definition of "route" as follows:

"Route" means any delivery (including delivery by a vendor or through a distribution point, or sale from a plant store) of a fluid milk product to retail or wholesale outlets other than a delivery (a) in bulk to a milk plant, or (b) to a food processing plant pursuant to § 1065.41(c)(4).

While the provision clearly excludes deliveries in bulk to a milk plant, it does not exclude packaged milk deliveries to a milk plant. A proposal placed in the hearing notice by the Dairy Division, Consumer and Marketing Service (now Agricultural Marketing Service) provided opportunity for interested parties to recommend changes to clarify the status of packaged milk deliveries to milk plants. Although no industry representative presented testimony on the matter, a statement by counsel in behalf of a cooperative opposed any change which would exclude packaged disposition to milk plants from the route definition. Other testimony, by a representative of the Dairy Division, served only to describe the aspect of the provision for which clarification would be desirable.

In view of the lack of substantial evidence, no change is made in the status of packaged disposition to milk plants under the route definition.

(c) Handlers' reports included in uniform price computation.

The order provides that the computation of the uniform price for each month include the value of the net pool obligation of all handlers who have: (1) Submitted reports of receipts and utilization for the month, (2) made required payments to producers and cooperatives for milk delivered in the preceding month, and (3) who have paid their obligation to the producer-settlement fund for the previous month.

Obviously, if a handler does not file a report of his receipts and utilization such data cannot be included in the current uniform price computation. Federal orders generally exclude a handler's utilization from the uniform price computation for the additional reason that the handler has failed to pay his previous month's obligation to the producer-settlement fund. If the handler reports, but has failed to pay his producer-settlement fund obligation for the preceding month, this fact is known to the market administrator prior to the time for computing a uniform price in the following month.

Except for a "de minimus" situation, it is reasonable to require that payment to the producer-settlement fund for the preceding month also be a prerequisite for including the handler's receipts and uses in the current pool. Failure to pay in the preceding month provides strong indication of the handler's intention for the current month, which could affect moneys available for payments out of the pool.

Excluding a handler's utilization from the computation of the uniform price if he has not paid producers or cooperative associations presents obvious administrative difficulties. At the time the uniform price is computed, the market administrator may not know whether a handler has paid producers or cooperative associations for the prior month. Audit of such payments for the preceding month normally has not been made by the date of the current uniform price computation. Whether such payments have been made could involve disputed questions of fact or arrangements between producers or cooperative associations, and handlers. The market administrator may not know, prior to the next computation of the pool, the complete facts concerning a particular incident of payment. It may not be feasible to have such questions cleared up prior to the date on which the uniform price must be computed. For this reason, the order should be amended to eliminate this prerequisite to pooling in the current month.

(d) Partial payments.

In the provisions for payments to producers the term "partial payment" should be substituted for "advance payment."

In § 1065.80(b) the order requires each handler to pay each producer before the 27th day of the month with respect to milk received from such producer during the first 15 days of the month at a rate not less than the uniform price for the preceding month. In case payments are made to a cooperative association for producers such payments are to be made to the cooperative on or before the 26th day of the month.

The order further provides that when the handler completes payment to producers or cooperative associations for all the milk received during the month, he is given credit for a payment made for milk delivered during the first 15 days of the month.

The payment made by the handler for milk received in the first 15 days of the month is a partial payment with respect to the quantity received during the entire month. The term "partial payment" is therefore more descriptive of the type of payment made than "advance payment" and the former term should be used. The order specifies that these payments shall be made only to each producer who has not discontinued shipping to such handler before the 27th day of the month. Thus the money calculated using the quantity of milk delivered during the first 15 days of the month would not in any case be as much as the handler's obligation for all the milk the producer has delivered up to the time of the payment.

In § 1065.80(d), the introductory text preceding subparagraph (1) specifies payments by a handler to a cooperative as a handler pursuant to § 1065.8 (c) or (d). The provisions in § 1065.8(c) defines a cooperative as a handler on milk it diverts to nonpool plants. The payments pursuant to § 1065.80, however, are payments by regulated handlers to producers and cooperatives and would not include

any payments on milk diverted by a cooperative. The reference to § 1065.8(c) therefore is deleted.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

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

GENERAL FINDINGS

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

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

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

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

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

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

§ 1065.7 [Amended]

1. § 1065.7 *Producer*, the period at the end of the provision is changed to a colon and the following proviso is added:

Provided, That a dairy farmer shall not be a producer in any month in which he holds a Class I base if any portion of his milk is delivered, other than as producer milk, to a nonpool plant at which there is Class I disposition.

§ 1065.9 [Amended]

2. In § 1065.9, the word "and" at the end of paragraph (b) is deleted, the period at the end of paragraph (c) is changed to a semicolon followed by the word "and", and a new paragraph (d) is added to read as follows:

(d) Has met the requirements pursuant to § 1065.97(c).

§ 1065.10 [Amended]

3. In § 1065.10 *Distributing plant*, the words "an appropriate health authority" are changed to "a duly constituted health authority."

§ 1065.11 [Amended]

4. In § 1065.11 *Supply plant*, the words "an appropriate health authority" are changed to "a duly constituted health authority"; also, the words "under a Grade A label" are changed to "as Grade A milk."

§ 1065.12 [Amended]

5. In § 1065.12 *Pool plant*, the words "any health authority" in the language preceding paragraph (a) is changed to "a duly constituted health authority."

6. Paragraph (k) of § 1065.22 is amended by revising subparagraph (2) to read as follows:

§ 1065.22 Additional duties of the market administrator.

* * * * *

(k) * * *

(2) The 12th day after the end of each month, the applicable uniform prices pursuant to § 1065.71 or § 1065.71a, and the butterfat differential to be paid pursuant to § 1065.72;

§ 1065.71 [Amended]

7. In § 1065.71, paragraphs (h), (i), (j), (k), and (l) are revoked and paragraph (g) is revised to read as follows:

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and except for any month in which a Class I base plan is effective shall be the "uniform price" for milk received from producers.

8. A new § 1065.71a is added to read as follows:

§ 1065.71a Computation of uniform prices for base milk and excess milk.

For each month in which a base plan is effective the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk of 3.5 percent butterfat content received from producers as follows:

(a) From the net amount computed pursuant to § 1065.71 (a) through (e) subtract the amounts specified in subparagraphs (1), (2), (3), and (4) of this paragraph and adjust the result as specified in subparagraph (5) of this paragraph:

(1) The amount computed by multiplying the hundredweight of milk specified in § 1065.71(f)(2) by the weighted average price for all milk;

(2) The amount obtained by multiplying by the Class III price the total hundredweight of milk delivered by all producers who have no Class I base; and

(3) The amount computed by multiplying the hundredweight of excess milk by the Class III price for 3.5 percent butterfat milk provided that the quantity of milk to which the Class III price is applied pursuant to this subparagraph plus the quantity pursuant to subparagraph (2) of this paragraph shall not exceed the quantity of producer milk in Class III;

(4) An amount computed by multiplying any remaining hundredweight of excess milk by the Class II price for 3.5 percent butterfat milk to the extent that producer milk in Class II is available for such assignment; and

(5) An amount computed by multiplying any remaining hundredweight of excess milk by the Class I price for 3.5 percent butterfat milk.

(b) Divide the net amount obtained in paragraph (a) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform base price per hundredweight of milk of 3.5 percent butterfat content; and

(c) Divide the amount obtained in paragraphs (a) (3), (4), and (5) of this section by the hundredweight of excess milk, and subtract any fractional part of 1 cent. This result shall be known as the uniform excess price per hundredweight of milk of 3.5 percent butterfat content.

9. Section 1065.73 is amended by adding a new paragraph (d) to read as follows:

§ 1065.73 Location differentials to producers and on nonpool milk.

* * * * *

(d) For any month in which a base plan is effective, the uniform price for base milk computed pursuant to § 1065.71a shall be adjusted in the same manner as specified in paragraphs (a) and (b) of this section; *Provided*, That if the milk of a producer is delivered as producer milk to plants at which different base prices apply, then for purposes of location adjustment the base milk of the producer shall be prorated to plants in proportion to deliveries of the producer's milk to such plants.

10. In § 1065.80, the introductory text preceding paragraphs (a) and (d) are revised to read as follows:

§ 1065.80 Time and method of payment.

Except in each month in which § 1065.80a applies, each handler shall make payments as follows:

* * * * *

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.8(d) as follows:

* * * * *

11. A new § 1065.80a is added to read as follows:

§ 1065.80a Time and method of payment to producers and to cooperative associations.

For each month in which a base plan is effective each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraphs (c) and (d) of this section, at not less than the uniform base price for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 1065.72 and by any location adjustment applicable under § 1065.73, at not less than the uniform excess price for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1065.72 and at not less than the Class III price adjusted by the butterfat differential pursuant to § 1065.72 for the quantity of milk received from producers for whom no base milk is computed, less the following amounts: (1) The payments made pursuant to paragraph (b) of this section; (2) Marketing service deductions pursuant to § 1065.85; and (3) Any proper deductions authorized by the producer: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 1065.83, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator;

(b) On or before the 27th day of each month to each producer for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) or (d) of this section and who has not discontinued shipping milk to such handler, a partial payment with respect to milk received from such producer during the first 15 days of the month in an amount per hundredweight not to be less than the weighted average price for the preceding month;

(c) To a cooperative association which has filed a written request for such payment with such handler with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association:

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.8(d) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the weighted average price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the applicable class prices, less payment made pursuant to subparagraph (1) of this paragraph;

(e) In making payments to producers pursuant to paragraphs (a) and (c) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1065.71a, 1065.72, and 1065.73;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1065.85 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

12. A new centerhead "Class I Base Plan" is inserted after § 1065.86 and new §§ 1065.90 through 1065.98 are added as follows:

CLASS I BASE PLAN

§ 1065.90 Production history base and Class I base.

For purposes of determination and assignment of Class I base of each producer:

(a) "Production history base" as assigned to each producer means a quantity of milk in pounds per day as computed pursuant to § 1065.92, 1065.93, or 1065.94.

(b) "Production history period" means the period to be used for the computation of production history base. Subject to the conditions of subparagraphs (1), (2), and (3) of this paragraph, a production history period for a producer shall be a 1-year, 2-year, or 3-year production history period depending on whether milk deliveries by the producer began on or before July 1 in the first, second, or third calendar year, respectively, preceding the February 1 on which the production history base is being determined or preceding the most recent February 1.

(1) The production history period of a producer who has forfeited his Class I base pursuant to § 1065.97(a) or has disposed of all of his Class I base shall begin on the later of the following dates:

(i) The first day of the 13th month after the month in which the producer ceased deliveries of producer milk or disposed of his Class I base, or

(ii) The first day of production delivered when the producer resumes deliveries of producer milk.

(2) Except as provided in subparagraph (1) of this paragraph, if the milk deliveries of any dairy farmer are interrupted for 90 days or more during the period prior to the effective date of this provision or prior to the dairy farmer qualifying as a producer, only the period of milk deliveries following such interruption shall be included in the producer's production history period.

(3) In the case of a producer who has acquired the herd and farm of a member of his immediate family (either before or after the effective date of this provision) and has continued to operate that farm and herd, the deliveries made by the previous producer during the production history period shall be assumed to have been delivered by the current producer for use in computing a production history base, unless the previous owner transferred the Class I base to a third person, in which case the person continuing the operation of the herd and farm shall be treated as a new producer pursuant to § 1065.93(c).

(c) "Class I base" means a quantity of milk in pounds per day as computed pursuant to § 1065.95 for which a producer may receive the uniform price for base milk;

(d) "Average daily milk deliveries" of a producer in any specified period used for computing production history bases means the total pounds of milk delivered during the period by the producer to pool plants and to nonpool plants excluding milk delivered other than as a producer pursuant to the proviso of § 1065.7 divided by the greater of the number of days pursuant to subparagraphs (1) or (2) of this paragraph.

(1) The number of days' production delivered; or

(2) The calendar days from the first day of delivery through the last day of the period less the number of days' production the producer is prevented from delivering because of storm conditions: *Provided,* That the subtraction for storm conditions shall not exceed 8 days in any calendar year or exceed 4 days if a period of 6 months or less is involved.

§ 1065.91 Base milk and excess milk.

(a) "Base milk" means milk received from a producer during a month which is not in excess of his Class I base multiplied by the number of days in the month, except that if milk is received from a producer for only part of a

month, base milk shall be milk received from such producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(b) "Excess milk" means producer milk other than that defined under paragraph (a) of this section from producers delivering base milk.

§ 1065.92 Computation of production history base for each producer.

A production history base shall be determined by the market administrator pursuant to this section and § 1065.93 for each producer eligible for such base on the effective date of this provision and on February 1 of each year thereafter, respectively. Subject to the conditions of paragraph (h) of this section, a production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(a) The production history base for each producer who began milk deliveries not later than July 1, 1971, shall be calculated by adding the average daily milk deliveries during the period of delivery in 1971 to the average daily milk deliveries in 1972 and dividing by two.

(b) The production history base for each producer who began delivery after July 1, 1971, but not later than July 1, 1972, shall be the average daily milk deliveries during such period.

(c) The production history base for each producer not specified in paragraphs (a) and (b) of this section who began milk deliveries before October 1, 1972, shall be the average daily milk deliveries during the period of delivery in such year multiplied by 0.80.

(d) The production history base for each producer who began milk deliveries on or after October 1, 1972, shall be computed pursuant to § 1065.93(c).

(e) For each producer who became a producer for this market before the effective date of this provision because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible, pursuant to paragraph (a), (b), (c), or (d) of this section, based on his deliveries of milk as if the nonpool plant(s) to which he delivered had been a pool plant(s) during the representative period;

(f) A producer not described pursuant to paragraph (e) of this paragraph who delivered milk to a nonpool plant(s) prior to becoming a producer shall be assigned a production history base if such base can be computed pursuant to paragraph (a), (b), (c), or (d) of this section from deliveries of milk from the same farm on which he is a producer at time of base assignment as if the plant(s) to which he delivered had been a pool plant(s) during the production history period.

(g) For a producer who held producer-handler status at any time subsequent to January 1, 1971, a production history base shall be calculated as described in paragraph (a), (b), (c), or (d) of this paragraph as if the milk of his own production received at his producer-handler plant had been received at a pool plant;

(h) The determination of a production history base pursuant to this section shall be subject to the following conditions:

(1) The computation of production history base shall be subject to adjustments due to acquisition or disposition by transfer of Class I base or other modifications of Class I base due to underdelivery or hardship;

(2) If a producer operated more than one farm at the same time, a separate production history base shall be determined with respect to the average daily producer milk deliveries from each farm, except that only one production history base shall be determined with respect to milk production resources and facilities of a producer handler; and

(3) Only one production history base shall be allowed with respect to milk produced by one or more persons at a single location where the land, building, and equipment, are jointly used, owned, or operated.

§ 1065.93 New producers.

The market administrator shall determine a production history base for each producer for whom a production history base was not determined pursuant to § 1065.92 as follows:

(a) Any producer who delivered his milk to a nonpool plant that became a pool plant shall be assigned a production history base on the same basis as other producers under the order as though the deliveries to the nonpool plant had been deliveries to a pool plant, except that assignment of base in the case of any producer who previously forfeited base or disposed of base by transfer will be subject to the provisions of paragraph (d) of this section.

(b) A producer other than a producer pursuant to paragraph (a) of this section who delivered milk to a nonpool plant prior to becoming a producer as defined in this order and who has at least a 1-year production history period shall be assigned a production history base, effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant, on the same basis as if he had been a producer under the order and his milk deliveries to the nonpool plant had been deliveries to a pool plant: *Provided,* That the production history base effective for such producer in any month before updating shall not exceed the average daily milk deliveries of such producer during the first 2 months of producer milk deliveries from the same production facilities from which milk deliveries were made during his production history period.

(c) A producer whose production history period is less than a 1-year production history period shall be assigned a production history base on the effective date of this provision or on the first day of the second month following the month in which as a producer he began milk deliveries in an amount equal to 50 percent of his average daily milk deliveries during the immediately preceding 2-month period. Such production history base shall be effective for such producer unless a production history base is acquired by transfer, in which case the greater of the acquired or the base computed from his own production shall be the effective production history base.

(d) A producer who, after having forfeited or disposed of all his Class I base, either continues as a producer on the market or discontinues deliveries to the market and thereafter returns to the market as a producer, shall be assigned a production history base in the manner provided in paragraph (c) of this section, such assignment to be effective not earlier than the first day of the 15th month after the month in which the producer who forfeits his base ceases deliveries or a producer who disposes of all his Class I base makes such disposition. In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. This provision shall be applied also to any production facility to which a Class I base has not been assigned that is operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture: *Provided,* That in the case of a producer who forfeited his base because he continued to deliver his milk to a plant that had been a pool plant but lost its pool plant qualification, assignment of base pursuant to paragraph (a) of this section will not be subject to delay to the first day of the 15th month after forfeiture, and deliveries by such producer during the period of forfeiture shall not be excluded from production history by reason of such forfeiture.

§ 1065.94 Updating of production history bases.

The production history base for each producer who has neither disposed of his entire base by transfer nor forfeited his base pursuant to § 1065.97(a), or after having disposed of his entire base by transfer or forfeiture has met the delivery requirement prescribed in § 1065.93 (d) for determination of new production histotry base, shall be determined by the market administrator on February 1, 1974, and each February 1 thereafter as follows:

(a) In updating a production history base as described in this paragraph, adjustments to a producer's previously assigned production history base and/or average daily milk deliveries in prior years shall be made as follows:

(1) The prior production history base assigned to such producer shall be

changed in proportion to the change in Class I base due to adjustment for hardship or loss of Class I base because of underdelivery of base. In the case of transfer of base production history base shall be adjusted as specified in § 1065.96 (a).

(2) The average daily milk deliveries of a producer in any calendar year that is part of his production history period prior to any net disposal of Class I base by transfers since January 31 of the preceding year or any underdelivery causing reduction of Class I base, shall be reduced in proportion to the associated net change in Class I base. For the purpose of this subparagraph disposal of base in January shall be treated as if disposed of in the preceding December.

(3) If the average daily milk deliveries of the producer in the preceding year are less than 90 percent of the Class I base assigned to such producer in the preceding year as adjusted for hardship and less any net disposal of base by transfer, then the producer's Class I base shall be reduced by the amount of the difference between such average daily milk deliveries and such Class I base as adjusted for hardship and disposal of base by transfer, and the production history base of such producer shall be reduced in the same proportion as the reduction of Class I base.

(4) If the net effect of all adjustments for any period is a reduction greater than the production history base or average daily deliveries prior to adjustment, then the resulting amount shall be zero and such period shall not be a production history period.

(b) Effective February 1, 1974, the market administrator shall update the production history base of each producer who has a production history period of 1 year or more as follows: Add (1) the average daily milk deliveries of such producer during the year 1973 and (2) twice the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, then such initial production history base as adjusted shall be the effective production history base.

(c) Effective February 1, 1975, and February 1 in each year thereafter the market administrator shall update the production history base for specified producers as follows:

(1) For each producer who has a 3-year production history period, add (i) the average daily milk deliveries during the preceding calendar year and (ii) the average daily milk deliveries during each of the second and third preceding calendar years (or portion of a year) reduced by any adjustment pursuant to paragraph (a) of this section, and divide such total by 3. If such result is less than the production history base assigned to such producer on or after February 1 of the preceding year as adjusted pursuant to paragraph (a) of this section then such previously assigned production history base, as adjusted, shall be the effective production history base.

(2) For each producer who has a 2-year production history period who did not acquire Class I base by transfer from another producer add (i) the average daily milk deliveries in the preceding year, (ii) the average daily milk deliveries in the second preceding year reduced by any adjustment pursuant to paragraph (a) of this section, and (iii) the initial production history base assigned to (or computed for) such producer pursuant to § 1065.92 (c) or (d) or § 1065.93 adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base assigned to such producer on or after February 1 of the preceding year as adjusted pursuant to paragraph (a) of this section, then such previously assigned production history base, as adjusted, shall be the effective production history base.

(3) For each producer who has a 1-year production history period add (i) the average daily milk deliveries of such producer during such 1-year period and (ii) twice the initial production history base assigned to (or computed for) such producer pursuant to § 1065.93 adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the initial production history base assigned to (or computed for) such producer as adjusted pursuant to paragraph (a) of this section, then such initial production history base, as adjusted, shall be the effective production history base.

(4) For each producer who has a 2-year production history period and who has acquired Class I base by transfer, add (i) the average daily milk deliveries of such producer during the preceding year and (ii) twice the production history base assigned to such producer on or after February 1 of the preceding year adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, then such previously assigned production history base, as adjusted, shall be the effective production history base.

(d) For a producer who is assigned an initial history of production pursuant to § 1065.92 (e), (f), (g) and § 1065.93 the market administrator shall update his history of production from year to year in the manner applicable to a producer delivering to a pool plant as provided in paragraphs (b) and (c) of this section.

§ 1065.95 Computation of Class I base for each producer.

On the effective date of this provision and on February 1, 1974, and February 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in § 1065.93 when they are issued production history bases. On February 1 of each year Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding calendar year specified in subdivisions (i), (ii), and (iii) of this subparagraph:

(i) Class I producer milk pursuant to § 1065.46;

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding December; and

(iii) The Class I disposition of a person who was a producer-handler during a portion of the year and who held producer status in the preceding December.

(2) Multiply the quantity computed pursuant to subparagraph (1) by 1.20 and divide such result by the number of days in such year.

(3) Divide the quantity computed pursuant to subparagraph (2) of this paragraph by a quantity which is the total of production history bases computed pursuant to §§ 1065.92, 1065.93, and 1065.94, whichever is applicable. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage" and rounding the result to the nearest pound: *Provided*, That with respect to a producer with a production history period of less than 3 years beginning after the effective date of this provision, 20 percent shall be subtracted from the result of the preceding calculation, and: *Provided further*, That such 20 percent reduction shall be effective continuously with respect to a producer for a period not exceeding 36 months from the beginning of such production history period. With respect to a producer who has acquired production history base by transfer, such 20 percent reduction shall apply only to base exclusive of that acquired by transfer.

§ 1065.96 Transfer of bases.

Production history base and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the disposal of Class I base and production history base by a transferor and the associated acquisition of Class I base and production history base by transferee. Disposal of base means disposal of Class I base and disposal of a proportionate amount of the production history base held by the transferor. Acquisition of base means the acquisition of Class I base and an amount of production history base which is the quantity of Class I base acquired multiplied by the reciprocal of the Class I base percentage. A transfer may be made only to a person who is a dairy farmer. The amount of Class I base credited to the transferee shall be two-thirds of the Class I base

disposed of by the transferor: *Provided,* That such one-third reduction shall not apply to:

(1) An intrafamily transfer (including transfer to an estate and from an estate to a member of the immediate family);

(2) The division of base except as provided pursuant to paragraph (h) of this section; and

(3) The combining of bases of two or more producers for purpose of joint enterprise operated by such producers.

(b) A person receiving base by transfer must notify the market administrator in writing of the name of the producer transferring the base, the effective date of the transfer and the amount of base to be transferred. Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the transferor, his heirs, executor, or trustee and by the person to whom such base is to be transferred;

(c) Subject to paragraphs (a) and (k) of this section, transfers of an entire base or transfers other than pursuant to paragraph (d) of this section may not be made except in the case of:

(1) Death of the baseholder;

(2) Intrafamily transfers;

(3) Termination of the dairy enterprise of base holder;

(4) The baseholder entering the armed services;

(5) Transfer to a partnership or corporation in which the transferor has a material management interest; and

(6) Transfers allowed as a hardship adjustment.

(d) Subject to paragraph (k) of this section, a producer may transfer a portion of his Class I base, in multiples of 150 pounds, as follows:

(1) Not more than the larger of 150 pounds or 30 percent of the Class I base assigned to a producer on the effective date, February 1 of any year, or as an initial assignment of base to such producer, may be disposed of by transfer prior to the February 1 following.

(2) A jointly held base may be divided among individuals engaged in a joint enterprise.

(e) Subject to paragraph (k) of this section a transfer of an entire base may be made effective on any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise such transfer shall be effective on the first day of the month following that in which application is made;

(f) A transfer of a portion of a base shall be effective the first day of the month following that in which application for which such transfer is made to the market administrator;

(g) A base which is jointly held or in a partnership may be transferred subject to limitations otherwise provided in this section only upon application signed by each joint holder or partner, his heirs, executors, or trustee and by the person to whom such base is to be transferred;

(h) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor, or trustee, is filed with the market administrator prior to the first day of the month for which such division is to be effective: *Provided,* That, however, a one-third lapse of base shall apply to base to the extent it constitutes a transfer by a person leaving a joint enterprise of base held by such person as an individual not more than 12 months prior to leaving such enterprise.

(i) It must be established to the satisfaction of the market administrator that the conveyance of base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section;

(j) In the case of an intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family), or any transfer not subject to the one-third lapse, all restrictions on transferring base applicable to the transferor producer shall also apply to the transferee;

(k) A producer who receives a base pursuant to § 1065.92 (c), (d), (e), (f), or (g) or § 1065.93(c) may not transfer such base, for 1 year from the date of receipt, provided, however, that such limitation shall not apply to;

(1) Intrafamily transfers; or

(2) The quantity of base such producer acquires by transfer.

(l) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons other than a member of the immediate family of the person transferring such stock will be considered to result in a transfer of base and in this case compliance with all base rules affecting transfers will be required: *Provided,* That if the transferor(s) is the sole holder of the stock and transfers such stock to a member or members of the immediate family, there will be no lapse of base.

(m) A dairy farmer who has ceased deliveries of producer milk because he is delivering milk to a plant formerly a pool plant that no longer has pool plant qualification shall not be permitted to dispose of Class I base.

§ 1065.97 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases.

(a) A person who discontinues delivery of producer milk for a period of 90 consecutive days after a Class I base is issued to him or fails to begin delivery of producer milk within 90 days of receipt of a Class I base by transfer shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain such production history, Class I base and production history base until 1 year after being released from active military service;

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk if the producer is not a member of a qualified cooperative association, and to the cooperative association of which the producer is a member;

(c) As a condition for designation as a producer-handler pursuant to § 1065.9, any person (including any member of the immediate family of such a person, any affiliate of such a person or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period; and

(d) In assigning Class I base to a producer, the market administrator shall round such base to the nearest pound.

§ 1065.98 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1065.92 through 1065.97 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding February 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of building, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, condemnation of milk, military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1065.97(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1065.94(a)(3).

(5) Inability to transfer base.

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1065.97(b) with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to request pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more producer base committees shall be established and function as follows:

(1) Each producer base committee shall consist of five producers appointed by the market administrator;

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a)(2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(*a*) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(*b*) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the producer base committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director; Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1065.86 for their services at $30 per day or portion thereof, plus necessary travel and subsistence expense incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

Signed at Washington, D.C., on September 5, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-15291 Filed 9-7-72;8:53 am]

[7 CFR Part 1106]

[Docket No. AO-210-A34]

MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

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

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Oklahoma Metropolitan marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Tulsa, Okla., on June 27, 1972, pursuant to notice thereof which was issued on June 9, 1972 (37 F.R. 11780).

The material issue on the record of the hearing relates to location adjustments.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Location adjustments. The schedule of location adjustments (the amounts by which the Class I price and uniform price are reduced for location of plant where milk is received from producers) should be revised.

No location adjustments now apply under this order at (1) plants in the State of Texas, (2) plants in Oklahoma that are south of the northern boundaries of Beckham, Washita, Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties, and west of the eastern boundaries of Seminole, Pontotoc, Johnston, and Marshall Counties, and (3) plants, wherever located, that are within 50 miles of Oklahoma City. There were no proposals to provide location adjustments at plants at which no location adjustments now apply.

At plants 50 miles or more from Oklahoma City (except for the designated territory within which no location adjustments apply) the present location adjustment rate is 10 cents at plants 50–150 miles of Oklahoma City, plus 2 cents for each 15 miles or fraction thereof between 150 and 240 miles, and plus 1 cent for each 15 miles or fraction thereof beyond 240 miles.

A handler proposed that the area 50–150 miles from Oklahoma City in which the 10-cent location adjustment applies be changed to 50–110 miles. At plants between 110 and 200 miles from Oklahoma City, he proposed that the location adjustment be an additional 2 cents for each 10 miles. Beyond 200 miles, the additional proposed location adjustment would be 1.5 cents for each 10 miles or fraction thereof.

The proponent of the above revised location adjustments operates a pool plant in Tulsa under the Oklahoma Metropolitan order and a Neosho Valley order pool plant in Coffeyville, Kans., which is 77 miles from Tulsa and 183 miles from Oklahoma City.

Substantial quantities of fluid milk products from the Tulsa and Coffeyville plants are distributed in the Oklahoma Metropolitan marketing area and at other locations in competition with handlers regulated by the Oklahoma Metropolitan order. Also, there are substantial interplant movements of packaged fluid milk products between the handler's Coffeyville and Tulsa plants.

Of the total Class I distribution from the Coffeyville plant, about 40 percent is in the Neosho Valley marketing area and 35 percent in the Oklahoma Metropolitan marketing area. The handler claims that in order to keep the Coffeyville plant regulated under the Neosho Valley order (instead of under the Oklahoma Metropolitan order) it has been necessary to make uneconomic movements of milk between the Tulsa and Coffeyville plants. If the Coffeyville plant's Class I distribution in the Oklahoma Metropolitan marketing area were to exceed such distribution in the Neosho Valley marketing area during the same month (and it otherwise qualified as a pool plant under both orders, as it now does) the Coffeyville plant would become an Oklahoma Metropolitan pool plant for the month.

The Oklahoma Metropolitan order Class I price is determined by adding $1.98 to the basic formula price for the second preceding month. The Class I price under the Neosho Valley order is 33 cents less than the Oklahoma Metropolitan order Class I price.

No location adjustment is applicable at Coffeyville under the Neosho Valley order. However, if the Coffeyville plant became a pool plant under the Oklahoma Metropolitan order, the Class I and uniform prices at that location would be subject to a location adjustment of 16 cents, based on the 183-mile distance from Oklahoma City to Coffeyville. The

effect of such change in order of regulation would be to increase the applicable Class I price at the Coffeyville plant by 17 cents.

Proponent held that a 17-cent change in his applicable Class I price solely on the basis of a shift in order of regulation is unwarranted. While he suggested that complete interorder price alignment at his plant location might be unattainable under existing circumstances, he stated that the location adjustment applicable at Coffeyville under the Oklahoma Metropolitan order should reflect the cost of transporting milk from Coffeyville to the Oklahoma Metropolitan order market. This, he contended, would result if his proposal, which would provide a 26-cent location differential (in lieu of the present 16 cents) at Coffeyville, were adopted and his Coffeyville plant became regulated under the Oklahoma Metropolitan order.

A handler who operates plants under the Red River Valley, Wichita, and Greater Kansas City orders opposed changing the location adjustments in the Oklahoma Metropolitan order without at the same time considering the Class I prices in nearby orders. He stated that changing the location adjustments as proposed would upset the historical relationship in Class I pricing among the various orders. Fluid milk products from his plants, which products are distributed over a wide area in Kansas, Missouri, Oklahoma, and Texas, compete for sales with those of handlers regulated by the Oklahoma Metropolitan order.

An Oklahoma City handler urged that no location adjustments apply at plants within the State of Oklahoma. At plants outside the State, he proposed location adjustments of 1.5 cents for each 10 miles or fraction thereof for the distance of a plant from the nearer of Oklahoma City or Tulsa. The handler claims that he is at a disadvantage in competing with handlers whose plants are located in Tulsa and at other places in Oklahoma where Class I milk costs are lower than his because of the 10-cent location adjustment.

The order's present location adjustment provisions are substantially the same as those adopted when the Oklahoma City and the Tulsa-Muskogee orders were combined in 1957. The 10-cent location adjustment applicable at Tulsa and Muskogee under the combined order retained the identical price relationship between the Oklahoma City and the Tulso and Muskogee locations that existed under separate regulation. Tulsa and Muskogee are 104 and 140 miles, respectively, from Oklahoma City.

The six regulated plants under the Oklahoma Metropolitan order at which location adjustments now apply are all in Oklahoma and within 50 to 150 miles of Oklahoma City. The 10-cent location adjustment now applicable at these plants reflects a pattern of location pricing within the State of Oklahoma that has prevailed for at least several years. It was not shown that conditions in the market warrant a different price relationship than now exists among the order's presently regulated Oklahoma-based plants. Similarly, there was no showing that location adjustments should apply at locations within 50 miles of Oklahoma City or at Texas locations.

For locations outside the State, basing points should be adopted so as to result in location adjustments that approximate the cost of moving milk to the market.

Under present circumstances, Tulsa and Ponca City are locations in the marketing area most suitable as basing points for determining the mileage for applying location adjustments at plants outside the State of Oklahoma. Tulsa, the second largest city in the State, is 104 miles northeast of Oklahoma City; Ponca City, the northernmost sizable city in the marketing area is 103 miles directly north of Oklahoma City.

The location adjustment under the Oklahoma Metropolitan order applicable at plants in Tulsa, Ponca City, and other specified locations in Oklahoma gives recognition to the fact that such locations are closer than Oklahoma City to main alternative sources of supply. With the adoption of these two cities as basing points for measuring distances to plants outside Oklahoma where location adjustments should apply, it is not necessary to retain Oklahoma City as a basing point for this purpose.

The rate of adjustment of 1.5 cents per 10 miles for any plant location outside the State (except Texas), measured from the nearer of Tulsa or Ponca City and subtracted from the Class I and uniform prices applicable at these cities, will provide a reasonable alignment of the Oklahoma Metropolitan order prices with prices at plants serving other nearby markets that may compete with handlers under this order.

A similar location adjustment rate, 1.5 cents for each 10 miles or fraction thereof, is widely used in Federal orders and is recognized as being reasonably reflective of the cost of transporting milk. The adoption of the 1.5-cent rate, as herein provided, will provide for the Oklahoma Metropolitan market the same rate as is used in the other nearby markets under regulation. The revised schedule provided in this decision will not change the location pricing at any of the 13 plants now regulated by the order. It will insure, however, that the location pricing at outlying plants that might become subject to the order will approximate the order price at the basing point location less the cost of moving milk to such point. The 10-cent difference in Class I prices between Tulsa (or Ponca City) and Oklahoma City allows for any movement of milk the greater distance to Oklahoma City.

The rate of 1.5 cents per hundredweight for each 10 miles from the nearer of Tulsa or Ponca City, as adopted in this decision, provides a more realistic transportation allowance from distant locations from the market than is presently provided in the order. The present location adjustment rates, which were instituted in the order in 1957, are not appropriate under current marketing conditions.

Revising the order's location adjustment provisions in the manner here adopted will not change appreciably the existing relationship between the Oklahoma Metropolitan Class I price and those in nearby Federal order markets.

The location adjustment applicable at Coffeyville, Kansas, under this decision would be 22 cents compared to the 16 cents provided under the existing order. While 4 cents less than proposed by the handler operating the Coffeyville plant, the change will provide him a rate of adjustment, if he becomes regulated under the Oklahoma Metropolitan order, similar to that applicable under nearby orders, i.e., available to handlers with whom he may compete.

Rulings on Proposed Findings and Conclusions

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

General Findings

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

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

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

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

RECOMMEND MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

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

Section 1106.53 is revised as follows:

§ 1106.53 Location adjustment to handlers.

(a) At a plant in the State of Oklahoma north of Beckham, Washita, Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties or east of Seminole, Pontotoc, Johnston, and Marshall Counties, and 50 miles or more from the city hall in Oklahoma City, the Class I price for milk received from producers shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such plant is more than 150 miles from Oklahoma City.

(b) At a plant outside the States of Oklahoma and Texas, the Class I price for milk received from producers shall be the price applicable at Tulsa or Ponca City, Oklahoma, pursuant to paragraph (a) of this section reduced by 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the city halls in Tulsa or Ponca City.

(c) The distances applied pursuant to paragraphs (a) and (b) of this section shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(d) The Class I price applicable to source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section.

(e) For purposes of calculating location adjustments, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1106.11(c), and the pounds assigned to Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

Signed at Washington, D.C., on September 1, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-15251 Filed 9-7-72;8:50 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 726]

BURLEY TOBACCO

Notice of Determination To Be Made Regarding Marketing Quota Regulations; 1971–72 and Subsequent Marketing Years

Pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et. seq.), the Department is preparing to amend the burley tobacco marketing quota regulations pertaining to establishing farm marketing quotas, the issuance of marketing cards, the identification of marketings and records and reports incident thereto.

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

1. Section 726.51(x) would be amended to delete the provision for giving planted or considered planted credit to a farm when the effective quota is reduced to zero due to violation or overmarketing and to delete the provision restricting planted or considered planted credit to federally owned land with a lease in effect prohibiting the production of tobacco thereon.

2. Sections 726.62(b), 726.64(d), 726.65, and 726.68(j) would be amended to provide language uniformly adopted for all commodity allotments, quotas, and bases relative to making inequity adjustments, release and reapportionment, establishing new farm quotas and the transfer of quota to or from federally owned land.

3. Sections 726.80 and 726.94(b)(1)(i) would be amended by deleting the references to Consumer and Marketing Service and replacing them with Agricultural Marketing Service in conformity with a reorganization.

4. In § 726.81, a new paragraph (g) would be added to provide for issuance of a marketing card with the notation "lease only" to the operator of a farm where there is quota available for lease and no tobacco available for marketing and subparagraph (5) of paragraph (f) would be redesignated as new paragraph (h) and would represent no substantive change in the regulations.

5. Paragraph (a) of § 726.85 and paragraph (c) of § 726.93 would be amended to clarify that a marketing card would not be needed to market tobacco identified as nonquota tobacco by an AMS inspection certificate.

6. In § 726.85, paragraph (e)(3) would be amended to clarify that separate records will be kept and reports made for quota and nonquota tobacco sold at auction.

7. In § 726.86, paragraph (c) would be amended to provide the rate of penalty for excess tobacco marketed during the 1972–73 marketing season.

8. Section 726.88(c) would be amended by revising the last sentence to refer allowable floor sweepings to § 726.51(n). This represents no substantive change in the regulations.

9. In § 726.93 and § 726.94 the first sentence of each section would be amended to clarify that dealers and warehousemen are required to keep records and make reports separately for quota and nonquota tobacco.

10. In § 726.93(a), subparagraph (3), and the fourth sentence of subparagraph (4) would be amended to require a warehouse to include negative adjustment invoices from dealers as a part of records to be maintained and to provide for numerical filing of sale bills by sale dates and filing of basket tickets in orderly manner by sale dates or by numerical order.

11. In § 726.93(a), subparagraph (7) would be amended to require sale bills for warehouse resales to be identified as floor sweepings or leaf account tobacco and subparagraph (8) would be amended to provide for Agricultural Marketing Service inspection of any tobacco represented as nonquota tobacco or if there is question as to the kind of tobacco being offered for sale, after the tobacco has been weighed and in line for sale.

12. Paragraph (g)(14) of § 726.93 and paragraph (c)(4) of § 726.94 would be amended to clarify that dealers and warehousemen are responsible for the actual weighing of carryover tobacco reported on hand on final MQ–79's and MQ–80's for the season.

13. Section 726.93 would be amended by revising paragraph (1) to permit warehousemen to prepare and maintain a daily summary journal sheet to reflect daily transactions in lieu of maintaining copies of the bill-out invoices to buyers.

14. In § 726.94, a second sentence would be added to the general statement at the beginning of the section and paragraph (d) would be amended to require a negative adjustment invoice from any dealer purchasing tobacco on a warehouse floor for any sale day in which there is no adjustment to the bill-out for that sale day as furnished by the warehouseman.

15. Section 726.95(a), the first sentence would be amended to provide that dealers exempt from regular records and reports on MQ–79 are required to furnish adjustment invoices or buyers settlement sheets and negative reports where no adjustment is necessary for a particular sale day, as provided in § 726.94(d).

16. Section 726.101 would be amended to add warehouse bill-out invoices and tissue copy of Form MQ–72–1, Report of Tobacco Auction Sale, to the list of records to be made available for examination upon written request by the State executive director.

17. Section 726.104 would be amended to provide for producer right to recertify, collection of producer cured leaf

samples, chemical analyzation of samples, producer refusal to permit sampling, notice to farm operator of county committee determination on use of DDT-TDE, and producer's right to appeal.

The proposed changes are set forth as follows:

1. Section 726.51(x) is amended to read as follows:

§ 726.51 Definitions.

* * * * *

(x) *Planted or considered planted.* Credit assigned in the current year for a farm with an established farm marketing quota when:

(1) Burley tobacco is planted on the farm (including failed acreage and acreage prevented from being planted because of a natural disaster), or

(2) Quota is: (i) Leased and transferred from the farm, (ii) in the eminent domain pool, or (iii) preserved under conservation programs or practices, as provided in Part 719 of this chapter, or

(3) The farm consists of federally owned land.

* * * * *

2. In § 726.62(b), the first sentence is amended to read as follows:

§ 726.62 Correction of errors and adjusting inequities in marketing quotas for old farms.

* * * * *

(b) *Basis for adjustment.* Increases to adjust inequities in quotas shall be made on the basis of the past acreages and yields of tobacco, making due allowances for failed acreage and acreage prevented from being planted because of a natural disaster; land, labor, and equipment, available for the production of tobacco, crop rotation practices; and the soil and other physical factors affecting the production of tobacco. * * *

* * * * *

3. In § 726.64, the first and second sentences of paragraph (d) are amended and a new paragraph (e) is added to read as follows:

§ 726.64 Marketing quotas and yields for farms acquired under right of eminent domain.

* * * * *

(d) *Release and reapportionment.* The displaced owner of a farm may, not later than the final release date established by the State committee for the current year, release in writing to the county committee for the current year all or part of the quota for the farm in a pool under Part 719 of this chapter for reapportionment for the current year by the county committee to other farms in the county having quotas for burley tobacco. The county committee may reapportion, not later than the final date established by the State committee for requesting reapportioned acreage for the current year, the released quota or any part of it to other farms in the county on the basis of past production of tobacco, land, labor, and equipment, available for the production of tobacco, crop rotation practices, and soil and other physical factors affecting the production of tobacco. * * *

(e) *Closing dates for release and reapportionment.* The State committee shall establish a final date for releasing quota to the county committee for reapportionment to other farms in the county having quotas for burley tobacco and a final date for filing a request to receive reapportioned acreage from the county committee for the current year. Such date(s) shall be for the entire State or for areas consisting of one or more counties in the State taking into consideration normal planting dates within the State. The dates will be determined and announced by regulations in this subpart or amendment thereto.

4. Section 726.65 is revised to read as follows:

§ 726.65 Determination of marketing quotas for new farms.

The marketing quota, other than a quota under § 726.64, for a new farm shall be that marketing quota which the county committee, with approval of the State committee, determines is fair and reasonable for the farm taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment, available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That the marketing quota so determined shall not exceed 50 percent of the average of the marketing quotas established for two or more but no more than five old tobacco farms which are similar with respect to land, labor, and equipment, available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco.

(a) *Written application.* The farm operator must file an application for a new farm marketing quota at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm marketing quota is requested.

(b) *Eligibility requirements for operator.* A new farm marketing quota may be established if each of the following conditions are met:

(1) *Owner and operator of the farm.* The operator must be the sole owner of the farm. For the purpose of applying this subparagraph (1), a person who owns only a part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner and operator of a farm which they own jointly.

(2) *Interest in another farm.* The farm operator shall not own or operate any other farm in the United States for which a tobacco allotment or quota is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production necessary to the production of burley tobacco on the farm.

(4) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income.

(a) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock, and livestock products, poultry, or other agricultural products, produced for home consumption or other use on the farm(s). The estimated return from the production of any requested new farm marketing quota shall not be included.

(b) *Income from nonfarming.* Nonfarming income shall include, but shall not be limited to, salaries, commissions, pensions, social security payments, and unemployment compensation.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

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

(5) *Experience.* Operator must have had experience in producing, harvesting, and marketing of burley tobacco. Such experience must have been gained:

(i) By being a sharecropper, tenant, or farm operator. (Bona fide tobacco production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement.)

(ii) During at least two of the 5 years immediately preceding the year for which the new farm quota is requested. If the operator was in the armed services during the 5-year period, extend the period 1 year for each year of military service during the 5 years.

(iii) On a farm having a burley tobacco allotment or quota for such years.

(c) *Eligibility requirements for the farm.* A new farm marketing quota may be established if each of the following conditions is met:

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

(2) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for tobacco production. Also, continuous production of tobacco must not result in an undue erosion hazard.

(3) *Entire quota designated by owner where farm reconstituted.* A farm which includes land which has no tobacco quota because the owner did not designate a quota for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm marketing quota for a period of 5 years beginning with the year in which the reconstitution became effective.

(4) *Eminent domain acquisition.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire tobacco allotment or quota was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm marketing quota for a period of 5 years from the date the former owner was displaced.

(5) *Downward adjustment.* New farm marketing quotas established as provided in this section shall be subject to such downward adjustment as is necessary to bring the total of such quotas within the total pounds available for quotas to all new farms.

(6) *Failure to plant.* A new farm marketing quota shall be reduced to zero if no tobacco is planted on the farm the first year.

(7) *False information.* Any new farm marketing quota which was determined by the county committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant, shall be canceled by the county committee as of the date the quota was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the quota shall be canceled effective for the current crop year except where the provisions of § 726.66 (d) applies.

(8) *New farm yields.* A farm yield shall be established for each new farm for which a farm marketing quota is established under this section. Such yield shall be appraised by the county committee based on farm yields established for similar farms in the area.

5. Section 726.68(j) is amended to read as follows:

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

* * * * *

(j) *Quotas on federally owned land.* Any farm consisting of federally owned land shall not be eligible to transfer burley tobacco quotas.

* * * * *

6. Section 726.80 is revised to read as follows:

§ 726.80 Identification of kinds of tobacco.

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

7. Section 726.81 is amended by revoking subparagraph (5) of paragraph (f) and by adding paragraphs (g) and (h) to read as follows:

§ 726.81 Issuance of marketing cards.

* * * * *

(f) *Farm quota data entered on marketing card and supplemental card.* * * *

(5) [Revoked]

(g) *Lease only marketing card.* A marketing card for lease only may be issued in the name of the farm operator for a farm where there is no tobacco available for marketing in the current year if the farm is otherwise eligible to lease marketing quota.

(h) *Other data entered on marketing cards and supplemental card.* Other data specified in instructions issued by the Deputy Administrator shall be entered on the marketing card.

8. In § 726.85, paragraphs (a) and (e)(3) are amended to read as follows:

§ 726.85 Identification of marketings.

(a) *Identification of producer marketings.* Each auction and nonauction marketing of tobacco from a farm in a quota area in the current year shall be identified by a marketing card, Form MQ–76, issued for the farm unless an AMS certification shows it to be nonquota tobacco. The reverse side of the marketing card shall show in pounds (1) 110 percent of quota, (2) balance of 110 percent of quota after each sale, and (3) date of each sale. Each producer sale at auction shall be recorded on a Form MQ–72–1, Report of Tobacco Auction Sale, and each producer sale at nonauction shall be recorded on Form MQ–72–2, Report of Tobacco Nonauction Purchase. For producer sales at nonauction, the dealer purchaser shall execute Form MQ–72–2 and shall enter the data on MQ–76. For producer sales at auction, Form MQ–72–1 and Form MQ–76 shall be executed only by the ASCS marketing recorder.

* * * * *

(e) *Separate display on auction warehouse floor.* * * *

(3) Make and keep records that will insure a separate accounting and reporting of each of such kinds of tobacco (quota and nonquota) sold at auction over the warehouse floor.

* * * * *

9. Paragraph (c) of § 726.86 is amended by adding 1971–72 average market price data in subparagraph (1) and 1972–73 rate of penalty data in subparagraph (2) to read as follows:

§ 726.86 Rate of penalty.

* * * * *

(c)(1) *Average market price.* * * *

AVERAGE MARKET PRICE

Marketing year:	Pound Cent per
1970–71	72.2
1971–72	80.9

(2) *Rate of penalty per pound.* * * *

RATE OF PENALTY

Marketing year:	Cent per Pound
1971–72	54
1972–73	61

10. Section 726.88 is amended by revising the last sentence of paragraph (c) to read as follows:

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

* * * * *

(c) *Leaf account tobacco.* * * * The actual quantity of floor sweepings which the State executive director determines has been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco if the amount thereof for the warehouse does not exceed the maximum allowable floor sweepings for the season determined by multiplying the limitation set forth in § 726.51(n) by total first sales of tobacco at auction.

* * * * *

11. Section 726.93 is amended by revising the first sentence of the section, the first sentence of subparagraph (1) of paragraph (a), subparagraph (3) of paragraph (a), the second and succeeding sentences of subparagraph (4) of paragraph (a), subparagraphs (7) and (8) of paragraph (a), the first sentence of paragraph (c) and subparagraph (14) of paragraph (g), and paragraph (l) to read as follows:

§ 726.93 Warehouseman's records and reports.

Each warehouse shall keep the records and make the reports separately for

each kind of tobacco (quota and nonquota) as provided in this section.

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

* * * * *

(3) *Buyers corrections account.* Each warehouseman shall keep such records including negative adjustment invoices as will enable him to furnish a weekly report on Form MQ–71 to the State ASCS office showing the total pounds of the debits (for returned baskets, short baskets, and short weights of tobacco) and credits (for long baskets, and long weights of tobacco) to the buyers corrections account. Where the warehouseman returns to the seller tobacco debited to the buyers corrections account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the buyers corrections account and a corresponding purchase (debit entry) in the case of a dealer on his MQ–79, Dealers Record. Any balancing figure reflected on the warehouseman's summary of bill-outs shall not be included in the buyers corrections account.

(4) *Tobacco sale bill and daily warehouse sales summary.* * * * The warehouseman shall not weigh in any tobacco for sale unless a marketing card (MQ–76 for producers, MQ–79–2 for dealers) is furnished the weighman or the tobacco is represented to be a nonquota kind which is required to be displayed in a separate area on the warehouse floor under § 726.85(e) of these regulations. The buyer and grade space on the tobacco sale bill shall show nonauction purchases by the warehouse, tobacco grade for tobacco consigned to price support, and the symbol for tobacco bought by private buyers. At the end of each sale day, the tobacco sale bills shall be sorted and filed in numerical order by sale dates, and basket tickets shall be filed in an orderly manner by sale dates or by numerical order. A copy of the executed Form MQ–80, Daily Warehouse Sales Summary, shall be furnished to the marketing recorder for the Kansas City Data Processing Center (KCDPC).

* * * * *

(7) *Labeling tobacco sale bill for resale tobacco.* In the case of resales, each sale bill shall show resale and: (i) For dealers, the name of the dealer making each resale; and (ii) for the warehouse, the name of the warehouse and either "floor sweepings" or "leaf account" tobacco.

(8) *Nonquota tobacco or quota tobacco of a different kind.* Should tobacco be presented for sale that is represented to be nonquota tobacco or there is question as to what kind of quota tobacco is being offered, an inspection shall be obtained from the Agricultural Marketing Service of this Department (AMS) after the tobacco is weighed and in line for sale. If an AMS inspection shows that a basket or lot of tobacco is of a different kind than that identified by the basket ticket after it is weighed in and a sale bill prepared, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared.

* * * * *

(c) *Marketing card.* Each marketing of tobacco from a farm in the burley tobacco producing area shall be identified by a marketing card issued for the farm on which the tobacco was produced (unless prior to the marketing of such tobacco an AMS inspection certificate is obtained showing that the tobacco offered for sale is a kind of tobacco not subject to marketing quotas).

* * * * *

(g) *Daily warehouse sales summary.* * * *

(14) At the end of the season, each warehouseman shall: (i) Report on his final MQ–80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location, (ii) permit its inspection by a representative of ASCS, and (iii) provide for the weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained as provided in subdivision (iii) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

* * * * *

(l) *Maintaining copies of bill-out invoices to purchaser or daily summary journal sheet to reflect daily transactions.* For each marketing year, the warehouseman shall maintain copies of the bill-out invoices to the purchaser by grades showing the pounds purchased and identification references to such basic warehouse records as basket ticket or sale bill. In lieu of this requirement, the warehouseman may prepare and maintain for each sale day on a current basis a daily summary journal sheet to reflect for each purchaser (including warehouse leaf account or other similar account) pounds and dollar amounts for:

(1) Tobacco originally billed to the purchaser.

(2) Mathematical billing errors and corrections (added and deducted) from purchaser's adjustment invoices.

(3) Short (deducted) and long (added) weights from purchaser's adjustment invoices.

(4) Short (deducted) and long (added) baskets from purchaser's adjustment invoices.

(5) Net tobacco received and paid for by purchaser.

12. Section 726.94 is amended by revising the general statement at the beginning of the section, the first sentence of paragraph (b)(1)(i), subparagraph (4) of paragraph (c), and paragraph (d), to read as follows:

§ 726.94 Dealer's records and reports.

Each dealer, except as provided in § 726.95, shall keep the records and make the reports separately for each kind (quota and nonquota) of tobacco as provided by this section. Adjustment invoices, including the adjustment invoices for any sale day for which there is no adjustment to be made, required to be furnished to an auction warehouse shall be identified by the warehouse identification number and the reporting dealer's identification number as well as the names of the warehouse and dealers involved in the transaction.

* * * * *

(b) *Nonauction sale (country purchase) to a dealer.* (1)(i) Each purchase of tobacco from a producer from a burley tobacco producing area shall be identified by a marketing card issued for the farm on which the tobacco was produced unless prior to purchase an AMS inspection certificate is obtained showing that the tobacco offered for sale is of a kind of tobacco not subject to marketing quotas. * * *

* * * * *

(c) *Record and report of purchases and resales.* * * *

(4) At the end of the dealer's marketing operation, but not later than April 1, he shall for each kind of tobacco: (i) Show the word "final" on his final report, MQ–79, for the season, (ii) report on such final MQ–79 for the season the quantity of tobacco on hand and its location, (iii) permit its inspection by a representative of ASCS, and (iv) provide for weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been determined as provided in subdivision (iv) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

* * * * *

(d) *Daily report to warehouseman for buyers corrections account.* Notwithstanding the provisions of § 726.95, reports shall be made as follows:

(1) Any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish to the warehouseman on a daily sales basis an adjustment invoice or buyers settlement sheet.

(2) Each dealer who purchases tobacco on a warehouse floor for any sale day in which there is no adjustment required in the account as shown on the warehouse bill-out invoice for that sale day, shall file a negative report with the warehouseman for that sale day.

(3) Such reports as required under subparagraphs (1) and (2) of this paragraph shall be furnished daily, if practicable (otherwise, they shall be furnished at the end of each week), and shall show the identification number of the purchasing dealer and the identification number of the warehouse where the purchase was made.

* * * * *

13. Section 726.95 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 726.95 Dealers exempt from regular records and reports on MQ–79; and season report for exempted dealers.

(a) Any dealer or buyer who acquires tobacco only at auction sale and resells, in the form in which tobacco ordinarily is sold by farmers, 5 percent or less of any such tobacco shall not be subject to the requirements of § 726.94, except as provided in paragraph (d) of § 726.94. * * *

* * * * *

§ 726.101 [Amended]

14. Section 726.101 is amended by adding the language "warehouse bill-out invoices or daily summary journal sheet, the tissue copy of Form MQ–72–1, Report of Tobacco Auction Sale," immediately following the language "documents,".

15. Section 726.104 is amended by revising paragraphs (d) through (f) and adding new paragraphs (g) through (i).

§ 726.104 Determination of use of DDT and TDE.

* * * * *

(d) *Producers right to recertify.* Any producer on a farm shall have the right to recertify on MQ–38 to the use or nonuse of DDT or TDE if the recertification is filed with the county committee prior to the time any tobacco has been marketed from the farm or a request has been made to collect a sample of cured leaves.

(e) *Collection of samples for chemical analysis.* Samples shall be collected from selected producer tobacco crops during weigh-in at the auction warehouse. Samples shall also be collected on any farm where the county committee has reason to believe the producer used DDT or TDE on the tobacco and the producer certified to nonuse of DDT or TDE on the crop.

(f) *Producer refusal to permit sampling.* If a producer or producer representative refuses to permit the sampling of a tobacco crop, all tobacco of such crop produced on the farm shall be considered by the county committee to have been treated with DDT or TDE.

(g) *Chemical analyzation of samples.* Each sample shall be analyzed for residues of DDT, TDE, and their metabolites.

(h) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from the farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on MQ–38, or (2) failure to file MQ–38, or (3) refusal to permit sampling, or (4) chemical analysis showing total DDT–TDE residue to be greater than or equal to 3 parts per million. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(i) *Producer's right to appeal.* Any producer on a farm who believes that the DDT–TDE determination for the farm by the county committee is not correct may file an appeal with the county committee asking for reconsideration of such determination. The request for appeal and facts constituting a basis for such reconsideration must be submitted in writing and postmarked or delivered to the county committee within 7 days after the date of mailing of the notice of such determination. The request for appeal must be signed by the person making the appeal. If the appellant believes that the county committee's determination of such appeal is not correct, he may appeal to the State committee within 7 days after the date of mailing of the notice of the decision of the county committee. The decision of the State committee shall be final.

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

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

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–15293 Filed 9–7–72;8:54 am]

Rural Electrification Administration

[7 CFR Part 1701]

SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

Cable Shield Bonding Connectors

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345–65 to announce a new REA Specification PE–33 for cable shield bonding connectors. On issuance of REA Bulletin 345–65, appendix A to Part 1701 will be modified accordingly.

Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, DC 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the new REA Specification PE–33 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345–65 announcing the issuance of the new specification is as follows:

REA BULLETIN 345–65

SUBJECT: REA specification for cable shield bonding connectors.

I. *Purpose:* To announce a new REA Specification PE–33 for cable shield bonding connectors.

II. *General:* This specification covers requirements for cable shield bonding connectors for joining cable shields of aerial, underground, and buried wires and cables. REA Specification PE–33 becomes effective on May 1, 1973. All cable shield bonding connectors furnished for REA projects bid or on orders placed by REA borrowers after that date shall comply in all respects with the new REA Specification PE–33. This does not preclude the adoption of the new specification by manufacturers prior to the effective date.

III. *Availability of specification:* Copies of the new PE–33 will be furnished by REA upon request.

Dated: September 1, 1972.

E. F. RENSHAW,
Assistant Administrator-Telephone.

[FR Doc.72–15296 Filed 9–7–72;8:54 am]

[7 CFR Part 1701]

SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

Subscriber Carrier Equipment

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345–66 to announce a new REA Specification PE–64 for subscriber carrier equipment. On issuance of REA Bulletin 345–66, appendix A to Part 1701 will be modified accordingly.

Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, DC 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the new REA Specification PE–64 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345–66 announcing the issuance of the new specification is as follows:

REA BULLETIN 345–66

SUBJECT: REA specification for subscriber carrier equipment.

I. *Purpose:* To announce a new REA Specification PE–64 for subscriber carrier equipment.

II. *General:* REA Specification PE–64 covers PCM and older carrier systems not covered by REA Specification PE–62. (REA Specification PE–62 is for station carrier equipment covering a family of equipment complying with a specific frequency plan of REA for analog carrier systems.)

This specification becomes effective immediately upon issuance of this bulletin. Manufacturers of equipment now accepted in the REA program shall have a period of 6 months to comply in all respects with the new REA Specification PE–64.

III. *Availability of specification:* Copies of the new PE–64 will be furnished by REA upon request.

Dated: September 1, 1972.

E. F. RENSHAW,
Assistant Administrator-Telephone.

[FR Doc.72–15297 Filed 9–7–72;8:55 am]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order 96 (Rev. 1)]

ASSISTANT COMMISSIONER (TECHNICAL)

Delegation of Authority Regarding Application of Rulings Without Retroactive Effect

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7805-1(b), the Assistant Commissioner (Technical) is hereby authorized to prescribe the extent, if any, to which any ruling issued by or pursuant to authorization from him, relating to the internal revenue laws concerning taxes, except for alcohol, tobacco, and firearms taxes other than the manufacturers excise tax on firearms arising from application of sections 4181 and 4182 of the Internal Revenue Code, shall be applied without retroactive effect.

This authority may not be redelegated.

Issue and effective date: August 31, 1972.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.72-15220 Filed 9-7-72;8:47 am]

[Order 106 (Rev. 1)]

CHIEF, CONTRACT AND PROCUREMENT SECTION, NATIONAL OFFICE FACILITIES BRANCH ET AL.

Delegation of Authority Regarding Procuring Property and Non-Personal Services

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 208 Revised, and subject to the limitations contained therein and in accordance with Treasury Department Administrative Circular No. 153 Revised, there is hereby delegated to the officials listed below the authority to utilize the provisions of Title III of the Federal Property and Administrative Services Act of 1949, as amended, when procuring property and services:

Chief, Contract and Procurement Section, National Office Facilities Branch. This authority may be redelegated to appropriate procurement officials under the direct control and supervision of the Section Chief, not below Grade GS-7.

Chief, Facilities Management Branch, all regions, who may redelegate to appropriate procurement officials, not below Grade GS-7. This authority also may be redelegated, only by the Regional Commissioner, to district offices and service centers, for purchase of $2,500 or less, by procurement officials, not below Grade GS-7. The authority to buy routine miscellaneous items and expendable supplies from General Services Administration stores may be redelegated by either official to appropriate procurement personnel not below Grade GS-4.

Chief, Facilities Management Branch, IRS Data Center. This authority is for purchase of $2,500 or less, and may be redelegated to appropriate procurement officials not below Grade GS-7 who are under the control and supervision of the Chief. The authority to buy routine miscellaneous items and expendable supplies from GSA stores may be redelegated to appropriate procurement personnel not below Grade GS-4.

Facilities Management Officer, National Computer Center, for purchase of $2,500 or less, and may redelegate to appropriate procurement officers, not below Grade GS-7. The authority to buy routine miscellaneous items and expendable supplies from GSA stores may be redelegated to appropriate procurement personnel not below Grade GS-4.

This order supersedes Delegation Order No. 106 issued August 8, 1967.

Issue and effective date: September 1, 1972.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.72-15219 Filed 9-7-72;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 372]

ARIZONA

Notice of Filing of Plat of Survey

SEPTEMBER 1, 1972.

1. The plat of survey described below will be officially filed in the Arizona State Office, Phoenix, Ariz., effective at 10 a.m., on October 16, 1972.

GILA AND SALT RIVER MERIDIAN

T. 1 N., R. 5 E.,

A dependent resurvey of portions of the north and west boundaries and subdivisional lines, a portion of the subdivision of sections 4, 7, and 8; a retracement of a portion of the subdivisional lines; a survey of additional subdivisions in sections 4, 7, and 8, and a survey of the south boundary of the Salt River Indian Reservation through sections 3, 4, 7, 8, 9, and 18.

The plat of this survey, in four sheets, was accepted on August 17, 1972.

2. If protests against the survey, as shown on this plat, are received prior to the date of its official filing, the filing will be stayed pending consideration of the protests. This plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

3. The plat will be placed in the open files of the Arizona State Office, Bureau of Land Management, Federal Building, Room 3022, Phoenix, Ariz. 85025, and will be available to the public as a matter of information only. Copies of the plat, in four sheets, may be obtained from that office upon payment of $4.

4. A person who wishes to protest against the survey must file with the State Director, Bureau of Land Management, Phoenix, Ariz., a notice that he wishes to protest prior to the proposed official filing date given above. A statement of reasons for the protest may be filed with the notice of protest to the State Director or with the Director, Bureau of Land Management, Washington, D.C. 20240. The statement of reasons must be filed within 30 days after the proposed official filing date.

JOE T. FALLINI,
State Director.

[FR Doc.72-15241 Filed 9-7-72;8:49 am]

[S 5240]

CALIFORNIA

Designation of Negit Island Natural Area

AUGUST 31, 1972.

Pursuant to the authority in 43 CFR Subparts 2070 and 6225, and the authority from the Director dated June 13, 1972, I hereby designate the public lands in the following described area as Negit Island Natural Area:

MOUNT DIABLO MERIDIAN

Unsurveyed island lying in:
T. 2 N., R. 26 E.,
Secs. 13 and 14.

T. 2 N., R. 27 E.,
Secs. 18 and 19.

The area described aggregates approximately 197 acres (California Protraction Diagram 118), of public land in Mono County.

Negit Island is a "Class IV Outstanding Natural Area" under the Bureau of Outdoor Recreation system of classification.

Under the natural area designation, the above-described lands are subject to the protection and preservation provisions of 43 CFR Subpart 6225. Specifically, the land shall not be used, occupied, constructed upon or improved in a manner inconsistent with the purpose for which the area is established.

J. R. PENNY,
State Director.

[FR Doc.72-15242 Filed 9-7-72;8:49 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

ECONOMIC ADVISORY BOARD

Notice of Meeting

A meeting of the Department of Commerce Economic Advisory Board will be held from 9:30 a.m. to 3 p.m. on Wednesday, September 13, 1972, Room 4830, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

The purpose of the Board is to advise the Secretary of Commerce on economic policy issues.

The intended agenda is as follows:

9:30-11:00	Current developments in wage and price data.
11:00-12:30	Productivity problems and policies.
2:00-3:00	Dividend policy and the economic stabilization program.

A limited number of seats will be available to the public and the press. Participation will be limited to requests for clarification of items under discussion; additional comments or inquiries may be submitted to the Chairman following the meeting. Persons desiring to attend the meeting should contact Miss Maryann Ferko, telephone 202—967-3523 by Monday, September 11, 1972.

For further information, inquiries should be directed to Mr. Basil R. Littin, Director of Public Affairs, Room 5419, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone 202—967-3263.

HAROLD C. PASSER,
Assistant Secretary, for Economic Affairs.

[FR Doc.72-15342 Filed 9-7-72;8:55 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 11255]

CERTAIN COMBINATION DRUGS CONTAINING ANTACIDS WITH ANTICHOLINERGICS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, drug efficacy study group, on the following drugs:

1. Modutrol tablets containing pipethanate hydrochloride, scopolamine methylnitrate, aluminum hydroxide, and magnesium hydroxide; Reed & Carnrick, 30 Boright Avenue, Kenilworth, NJ 07033 (NDA 11-255).

2. Estomul tablets containing orphenadrine hydrochloride, bismuth aluminate, magnesium oxide, aluminum hydroxide, and magnesium carbonate; Riker Laboratories Inc., Division Dart Inc., 19901 Nordhoff Street, Northridge, CA 91324 (NDA 12-830).

3. Estomul liquid containing orphenadrine hydrochloride, bismuth aluminate, aluminum hydroxide, and magnesium carbonate; Riker Laboratories, Inc. (NDA 12-830).

4. Alzinox Compound Tablets and Magma containing dihydroxy-aluminum aminoacetate, phenobarbital, and homatropine methylbromide; Smith, Miller & Patch, Inc., 401 Joyce Kilmer Avenue, New Brunswick, N.J. 08902 (NDA 6-547).

The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these fixed combination drugs lack substantial evidence of effectiveness, within the meaning of the Federal Food, Drug, and Cosmetic Act, for their recommended uses and that drugs containing an anticholinergic with an antacid are not appropriate for administration as fixed-dose combinations within the guidelines set forth in the Statement of General Policy or Interpretation § 3.86 *Fixed-combination prescription drugs for humans*, published in the FEDERAL REGISTER of October 15, 1971 (36 F.R. 20037).

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the above-listed new drug applications. Any related drug for human use, not the subject of an approved new drug application, may be affected by this action.

Prior to initiating such action, however, the Commissioner invites the holders of the new drug applications for these drugs and any interested person who might be adversely affected by their removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 11255, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-15217 Filed 9-7-72;8:47 am]

[DESI 7661; Docket No. FDC-D-313; NDA 7-661]

CERTAIN DRUGS CONTAINING FLUOXYMESTERONE AND ETHINYL ESTRADIOL; DIETHYLSTILBESTROL AND METHYL TESTOSTERONE; CHLOROTRIANISENE AND METHYLTESTOSTERONE; OR TESTOSTERONE ENANTHATE AND ESTRADIOL VALERATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following combination drugs for oral or parenteral use:

1. Halodrin Tablets, containing fluoxymesterone and ethinyl estradiol; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002 (NDA 11-267). (A previous evaluation was published

May 13, 1970 in 35 F.R. 7464 (DESI 11267).)

2. Tylosterone Injection, containing diethylstilbestrol and methyltestosterone; Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 8-099).

3. Tylosterone Tablets, containing diethylstilbestrol and methyltestosterone; Eli Lilly and Co. (NDA 7-661).

4. Tace with Androgen Capsules, containing chlorotrianisene and methyltestosterone; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., Lockland Station, Cincinnati, Ohio 45215 (NDA 10-597).

5. Deladumone Injection and Deladumone OB Injection, containing testosterone enanthate and estradiol valerate; E.R. Squibb and Sons, Lawrenceville-Princeton Road, Post Office Box 4000, Princeton, N.J. 08540 (NDA 9-545).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

The Food and Drug Administration published an announcement (DESI 11267) in the FEDERAL REGISTER of May 13, 1970 (35 F.R. 7464), concerning Halodrin Tablets (fluoxymesterone with ethinyl estradiol). In that announcement the drug was stated to be probably effective for use in the treatment of senile and post-menopausal osteoporosis; and possibly effective for the treatment of the menopausal syndrome, male climacterium, and osteoporosis in certain patients following long-term adrenocorticoid therapy.

Based on a reevaluation of the reports received from the Academy, the Commissioner finds it appropriate to rescind the announcement of May 13, 1970 (DESI 11267). The revised conclusions pursuant to that reevaluation of Halodrin Tablets are included below.

A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are effective for the prevention of postpartum breast engorgement and for the menopausal syndrome in those patients not improved by estrogen alone.

2. The drugs are regarded as probably effective for the treatment of postmenopausal and senile osteoporosis when used in conjunction with other important therapeutic measures such as diet, calcium, physiotherapy, and good general health promoting measures.

3. The drugs are regarded as possibly effective for use in osteoporosis in certain patients following long-term adrenocortical therapy; prevention of postpartum breast manifestations of lactation; protein depletion and chronic debility; tissue atrophy in geriatric patients; depletion of protein and osseous tissues during corticosteroid therapy, spinal paraplegia, and delayed fracture union; and for dysmenorrhea.

4. The drugs lack substantial evidence of effectiveness for male climacterium.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Testosterone enanthate with estradiol valerate is in sterile solution form suitable for parenteral administration. Methyltestosterone with diethylstilbestrol is in sterile solution form suitable for parenteral administration or in appropriate dosage form for oral administration. The other drugs are in a dosage form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription".

b. The drugs are labeled to comply with all requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drugs. The "Indications" section is as follows: (the possibly effective indications may also be used for 6 months).

INDICATIONS

(Name of drug) is indicated for the prevention of postpartum breast engorgement; for the menopausal syndrome in those patients not improved by estrogen alone; and for the treatment of postmenopausal and senile osteoporosis when used in conjunction with other important therapeutic measures such as diet, calcium, physiotherapy, and good general health promoting measures.

The dosages for any of these indications which are to be used in labeling must be supported by clinical data if the indication was not included in the labeling which the Academy reviewed.

c. The labeling for those preparations which contain diethylstilbestrol must contain the following:

CONTRAINDICATION

A statistically significant association has been reported between maternal ingestion during pregnancy of diethylstilbestrol and the occurrence of vaginal carcinoma in the offspring. The use of diethylstilbestrol or any of its closely related congeners is contraindicated in pregnancy.

d. The labeling of all of the other estrogen-androgen preparations must contain the following:

WARNING

A statistically significant association has been reported between maternal ingestion during pregnancy of diethylstilbestrol and the occurrence of vaginal carcinoma developing years later in the offspring. Whether such an association is applicable to all estrogens is not known at this time. In any event, estrogens are not indicated for use during pregnancy.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not included in the "Indications" section), continued use as described in paragraphs (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A.4. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from

adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 7661, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

Request for Hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC–1), Room 6–88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD–67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 14, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–15215 Filed 9–7–72;8:47 am]

[DESI 6320; Docket No. FDC–D–257; NDA 6–320 etc.]

CERTAIN ANTI-ARRHYTHMIC DRUGS CONTAINING QUINIDINE HYDROCHLORIDE; ISOPROTERENOL HYDROCHLORIDE; PROCAINAMIDE HYDROCHLORIDE; QUINIDINE POLYGALACTURONATE; QUINIDINE SULFATE; OR QUINIDINE GLUCONATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following antiarrhythmic drugs for oral, sublingual, rectal, or parenteral administration:

1. Quinidine Hydrochloride Injection; Brewer and Co., Inc., 67 Union Street, Worcester, Mass. 01608 (NDA 6–320).

2. Isuprel Hydrochloride Injection (NDA 10–515) and Isuprel Hydrochloride Tablets (NDA 6–328), both containing isoproterenol hydrochloride; Winthrop Laboratories, 90 Park Avenue, New York, N.Y. 10016.

3. Pronestyl Injection and Pronestyl Capsules, both containing procainamide hydrochloride; E. R. Squibb & Sons, Inc., 909 Third Avenue, New York, N.Y. 10022 (NDA 7–335).

4. Cardioquin Tablets, containing quinidine polygalacturonate; The Purdue Frederick Co., 99–101 Saw Mill River Road, Yonkers, N.Y. 10701 (NDA 11–642).

5. Quinidine Gluconate Injection; Eli Lilly & Co., Box 618, Indianapolis, Ind. 46206 (NDA 7–529).

6. Quinidex Extentabs, containing quinidine sulfate; A. H. Robins Co., Inc., 1407 Cummings Drive, Richmond, Va. 23220 (NDA 12–796).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

I. QUINIDINE HYDROCHLORIDE PARENTERAL

QUINIDINE GLUCONATE PARENTERAL

QUINIDINE POLYGALACTURONATE ORAL

QUINIDINE SULFATE ORAL

A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these preparations are effective for those indications described in the "Indications" section of this announcement.

2. Parenteral forms of quinidine are possibly effective intramuscularly in certain cases of persistent hiccup.

B. *Form of drug.* Quinidine hydrochloride and quinidine gluconate preparations are in sterile solution form suitable for parenteral administration; and quinidine polygalacturonate and quinidine sulfate preparations are in tablet form suitable for oral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug.

The "Indications" sections are as follow:

For oral tablets of quinidine sulfate or quinidine polygalacturonate:

INDICATIONS

(Name of drug) is indicated in the treatment of:

Premature atrial and ventricular contractions.
Paroxysmal atrial tachycardia.
Paroxysmal AV junctional rhythm.
Atrial flutter.
Paroxysmal atrial fibrillation.
Established atrial fibrillation when therapy is appropriate.
Paroxysmal ventricular tachycardia when not associated with complete heartblock.
Maintenance therapy after electrical conversion of atrial fibrillation and/or flutter.

For parenteral quinidine hydrochloride or quinidine gluconate.

INDICATIONS

(Name of drug) is indicated in the treatment of the following conditions when oral therapy is not feasible or when rapid therapeutic effect is required:

Premature atrial and venticular contractions.
Paroxysmal atrial tachycardia.
Paroxysmal AV junctional rhythm.
Atrial flutter.
Paroxysmal atrial fibrillation.
Established atrial fibrillation when therapy is appropriate.
Paroxysmal ventricular tachycardia when not associated with complete heartblock.
Maintenance therapy after electrical conversion of atrial fibrillation and/or flutter.

The possibly effective indication may also be included for 6 months.

Labeling for both the oral and parenteral forms should include the following:

CONTRAINDICATIONS

Aberrant impulses and abnormal rhythms due to escape mechanisms should not be treated with quinidine.

WARNING

In the treatment of atrial flutter reversion to sinus rhythm may be preceded by a progressive reduction in the degree of AV block to a 1:1 ratio and resulting extremely rapid ventricular rate.

II. ISOPROTERENOL HYDROCHLORIDE PARENTERAL

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that isoproterenol hydrochloride injection is effective for those indications described in the "Indications" section of this announcement.

B. *Form of drug.* These isoproterenol hydrochloride preparations are in sterile solution form suitable for parenteral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug. The "Indications" section is as follows:

INDICATIONS

Parenteral isoproterenol hydrochloride is indicated in the treatment of cardiac standstill or arrest; carotid sinus hypersensitivity; Adams-Stokes syndrome; and ventricular tachycardia and ventricular arrhythmias. It may also be used in the management of bronchospasm during anesthesia.

III. ISOPROTERENOL HYDROCHLORIDE (SUBLINGUAL AND RECTAL)

A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that the sublingual or rectal dosage form of isoproterenol hydrochloride is effective for those indications described in the "Indications" section of this announcement.

2. The drug lacks substantial evidence of effectiveness for use in cardiac standstill or arrest.

B. *Form of drug.* These isoproterenol hydrochloride preparations are in tablet form suitable for sublingual or rectal administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug. The "indications" section is as follows:

INDICATIONS

The sublingual or rectal dosage form of isoproterenol hydrochloride is indicated in the treatment of carotid sinus hypersensitivity; ventricular tachycardia and ventricular arrhythmias; Adams-Stokes syndrome, and atrioventricular heartblock. It may also be used as a bronchodilator in the management of patients with bronchopulmonary disease.

IV. PROCAINAMIDE HYDROCHLORIDE PARENTERAL

A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that procainamide hydrochloride is effective or probably effective for the indications described in the "Indications" section of this announcement. The probably effective indication is the recommendation for prophylactic use before surgery in patients with known heart conditions.

2. This drug is possibly effective for treatment of digitalis-induced ventricular extrasystoles and tachycardia.

B. *Form of drug.* These procainamide hydrochloride preparations are in sterile solution form suitable for parenteral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug. The "indications" section is as follows:

INDICATIONS

Parenteral procainamide hydrochloride is indicated in the treatment of ventricular extrasystoles and tachycardia; atrial fibrillation; and paroxysmal atrial tachycardiia. It may also be used prophylactically before surgery in patients with known heart conditions and in the treatment of cardiac arrhythmias associated with anesthesia and surgery.

The possibly effective indications may also be included for 6 months.

V. *Procainamide Hydrochloride Oral.* A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that oral procainamide hydrochloride is effective for the indications described in the "Indications" section of this announcement.

2. This drug is possibly effective for prophylaxis before surgery in patients with known heart conditions; and in digitalis-induced ventricular extrasystoles and tachycardia.

3. Oral procainamide hydrochloride lacks substantial evidence of effectiveness for correction of cardiac arrhythmias that may occur during anesthesia.

B. *Form of drug.* Oral procainamide hydrochloride preparations are in capsule form suitable for oral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug. The "Indications" section is as follows:

INDICATIONS

Oral procainamide is indicated in the treatment of premature ventricular contractions and ventricular tachycardia; atrial fibrillation; and paroxysmal atrial tachycardia.

The possibly effective indication may also be included for 6 months.

VI. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

VII. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a) (1) (i), (ii), and (iii), of the notice of July 14, 1970. Clinical trials which have established effectiveness of the drug may also serve to establish the bioavailability of the drug if such trials were conducted on the currently marketed formulation. For preparations claiming sustained action, timed release, or other delayed or prolonged effect, such data should show that the drug is available at a rate of release which will be safe and effective.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed as described in paragraph (a) (3) (ii) of that notice. For preparations claiming sustained action, timed release, or other delayed or prolonged effect, such data should show that the drug is available at a rate of release which will be safe and effective.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" sections above) and possibly effective (not included in the "Indications" section above), continued use as described in (c), (d), (e), and (f), of that notice.

VIII. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph III A. and V A. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a) (5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations

are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 6320, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.
Request for Hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD-66), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-15213 Filed 9-7-72;8:47 am]

[DESI 6341]

METHAPYRILENE HYDROCHLORIDE FOR NASAL (TOPICAL) ADMINISTRATION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Histadyl Solution containing methapyrilene hydrochloride; Eli Lilly and Co., Box 618, Indianapolis, Ind. 46206 (NDA 6-340).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is possibly effective intranasally for the relief of nasal allergy.

B. *Marketing status.* Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to the firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 6341, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD-66), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 14, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-15214 Filed 9-7-72;8:47 am]

[DESI 776]

VARIOUS PREPARATIONS FOR WHICH AN EVALUATION CONCERNING EFFECTIVENESS WILL NOT BE PUBLISHED

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has received and considered reports from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group for the preparations described below. For the reasons which are given, the Administration is making no judgment concerning the effectiveness of these particular products and is therefore not implementing the Academy reports in the usual manner. As the initial phase of implementing the drug efficacy study is nearing completion, it is appropriate to recognize and account for these Academy reports and to place them in the public domain.

A. The following are bulk products submitted to the Academy for review. Since their labeling did not bear indications for use, neither the Academy nor the Food and Drug Administration has evaluated their effectiveness, although in some cases the Academy did make general comments:

1. Ephynal, a bulk powder containing dl-alpha tocopheryl acetate; Roche Laboratories, Division of Hoffmann La Roche, Inc., Nutley, N.J. 07110 (NDA 0-776).

2. Panthenol, a bulk powder containing d- and dl-pantothenyl alcohol; Roche Laboratories (NDA 6-467).

3. Biotin, a bulk powder containing d-biotin; Roche Laboratories (NDA 6-698).

4. Vitamin A, a bulk powder containing vitamin A palmitate; Roche Laboratories (NDA 6-646).

5. Riboflavin-5'-Phosphate Sodium, a bulk powder containing riboflavin-5'-phosphate ester monosodium salt dihydrate; Roche Laboratories (NDA 8-036).

6. Synthetic Vitamin A Acetate, a bulk preparation; Pfizer Laboratories Division, Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017 (NDA 7-518).

7. Vitamin A Palmitate in Corn Oil; Pfizer Laboratories (NDA 7-518).

8. Synthetic Vitamin A Palmitate, a bulk powder; Pfizer Laboratories (NDA 7-518).

9. Crystalets (Synthetic Vitamin A), a bulk powder containing synthetic vitamin A acetate; Pfizer Laboratories (NDA 7-518).

10. Hydrocortisone USP, 10 grams and 25 grams of bulk powder per bottle; Pfizer Laboratories (NDA 9-127).

11. Neomycin Sulfate USP Nonsterile, a bulk powder; Pfizer Laboratories (NDA 61-084).

12. Neomycin Sulfate for Prescription Compounding; E. R. Squibb & Sons, Lawrenceville-Princeton Road, Post Office Box 4000, Princeton, N.J. 08540 (NDA 90-285).

13. Zinc Peroxide Medicinal USP, a bulk powder containing zinc peroxide, zinc carbonate, and zinc hydroxide; Mallinckrodt Chemical Works Pharmaceutical Products Division, Post Office Box 5439, St. Louis, Mo. 63160 (NDA 1-374).

B. The following preparations, although submitted to the Academy for review, were not subjects of approved new drug applications and were never marketed. The Academy made general comments, but no evaluations of effectiveness, concerning them:

1. Sulfa-Polygyl 30 percent, an aqueous solution containing sodium sulfacetamide with polyvinylpyrrolidone; Schieffelin & Co., Apex, N.C. 27502 (NDA 11-147).

2. Atro-Polygyl, an aqueous solution containing atropine sulfate and polyvinylpyrrolidone; Schieffelin & Co. (NDA 11-159).

C. The following preparation is no longer marketed and there is no provision for its certification under the antibiotic drug regulations. It was submitted to and reviewed by the Academy. In its review, the Academy expressed concern over the sensitization potential and emergence of resistant bacterial strains associated with topical neomycin.

Mycifradin Sulfate Lotion containing neomycin sulfate; the Upjohn Co., 7000 Portage Road, Kalamazoo, Mich. 49001 (NDA 50-222).

D. The following preparation, an over-the-counter aerosol preparation for inhalation containing epinephrine bitartrate, was evaluated by the Academy. Both the Food and Drug Administration and the academy regard inhalations containing epinephrine, because of potential toxicity associated with excessive and repeated use, to be unsuitable for over-the-counter sale. The Commissioner of Food and Drugs has proposed a statement of policy which would require, among other things, that such preparations be limited to prescription sale (37 F.R. 7519; April 15, 1972).

Medihaler-Epi, an aerosol for oral inhalation containing epinephine bitartrate; Riker Laboratories, Inc., Northridge, Calif. 91324 (NDA 10-374).

E. The following preparation is no longer regarded as a drug by the Food and Drug Administration, but as a food for special dietary use coming under the purview of the Administration's Bureau of Foods:

Lofenalac Low Phenylalanine Food Powder, made from specially processed casein hydrolysate, corn oil, Dextri-Maltose brand carbohydrate modifier (maltose and dextrins derived from enzymatic action of barley malt on corn flour), arrowroot starch, sucrose, amino acids, minerals, and vitamins; Mead Johnson Laboratories, 2404 West Pennsylvania Street, Evansville, Ind. 47721 (NDA 10-876).

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 776, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-66), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-15212 Filed 9-7-72;8:46 am]

TECHNICAL ELECTRONIC PRODUCT RADIATION SAFETY STANDARDS COMMITTEE

Notice of Public Meeting

Pursuant to the provisions of section 13 of Executive Order 11671 of June 5, 1972 (37 F.R. 11307) and in accord with the policy of the Department of Health, Education, and Welfare, as published by the Secretary in the FEDERAL REGISTER on June 29, 1972 (37 F.R. 12864), notice is hereby given that a meeting of the Technical Electronic Product Radiation Safety Standards Committee will be held September 21-22, 1972, in Conference Room 400, 12720 Twinbrook Parkway, Rockville, MD 20852. Each day's session will begin at 9 a.m.

The function of this committee is to advise the Secretary, Department of Health, Education, and Welfare, on matters relating to performance standards to control radiation from electronic products. The Secretary is required by statute to consult this committee before prescribing any performance standard for electronic product radiation safety pursuant to the Radiation Control for Health and Safety Act of 1968 P.L. 90-602).

Subjects to be discussed at the meeting include:

September 21, 1972: 9 a.m.

Review of activities of the Bureau of Radiological Health.

Proposed performance standard for lasers and laser products.

September 22, 1972: 9 a.m.

Status report to committee on development of performance standard for cabinet radiography.

Presentation to committee of proposed amendment to performance standard for microwave ovens (42 CFR 78.212).

Report to committee on other performance standards under development.

The meeting shall be open to the public. A list of committee members may be obtained from Mr. Marshall S. Little, executive secretary, Technical Electronic Product Radiation Safety Standards Committee, Bureau of Radiological Health, RH-40, 1901 Chapman Avenue, Rockville, MD 20852.

The record of the committee proceedings will be available for public review within a few days following the meeting. This record may be viewed during regular business hours, Monday through Friday, at the foregoing address. Copies of the verbatim transcript and the condense summary of the meeting will be made available at cost.

Dated: August 31, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-15211 Filed 9-7-72;8:46 am]

[Docket No. FDC-D-514; NADA No. 8-143V]

PARKE, DAVIS & CO.

Surital (Ampoules); Notice of Withdrawal of Approval of New Animal Drug Application

In the FEDERAL REGISTER of August 25, 1970 (35 F.R. 13541, DESI 4536V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group on Surital (ampoules) NADA (new animal drug application) No. 8-143V; marketed by Parke, Davis & Co., Joseph Campau at the River, Detroit, Mich. 48232.

Parke, Davis & Co., advised the Commissioner that Surital is no longer marketed. They requested that said NADA be withdrawn.

Based on the grounds set forth in said announcement and the firm's response, the Commissioner concludes that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 8-143V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: September 1, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-15269 Filed 9-7-72;8:52 am]

[Docket No. FDC-D-474; NADA No. 6-588V, etc.]

SALSBURY LABORATORIES, ET AL.

Certain New Animal Drug Applications; Notice of Withdrawal of Approvals

In announcements in the FEDERAL REGISTER of October 17, 1969 (34 F.R. 16635, DESI 11036V), July 9, 1970 (35 F.R. 11069, DESI 63.91.V), July 9, 1970 (35 F.R. 11071, DESI 7055V), July 21, 1970 (35 F.R. 11645, DESI 9695V), August 6, 1970 (35 F.R. 12565, DESI

12409V) August 22, 1970 (35 F.R. 13490, DESI 10285V), and September 4, 1970 (35 F.R. 14103, DESI 7779V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of the reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Enheptin Soluble, NADA (new animal drug application) No. 7–983V; by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540.

2. Triple Sulfa Solution, NADA No. 7–055V; by Jensen-Salsbery Laboratories, 520 West 21st Street, Kansas City, MO 64141.

3. Sulfabrom, NADA No. 12–409V; by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Rahway, N.J. 07065.

4. Purina Hepzide Blackhead Control, NADA No. 11–179V; by Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188.

5. Salsbury's Sulfaquinoxaline, NADA No. 6–588V; by Salsbury Laboratories, Charles City, Iowa 50616.

6. Kaobiotic Suspension, NADA No. 9–695V; by The Upjohn Co., Kalamazoo, Mich. 49001. and

7. (a) SQS (Sulfaquinoxaline), NADA No. 6–895V; (b) Histosep-S, NADA No. 7–779V; and (c) Histocarb Soluble, NADA No. 11–501V; by Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown, Pa. 17067.

The announcements invited the holders of said new animal drug applications and any other interested persons to submit pertinent data on the drugs' effectiveness. Jensen-Salsbery Laboratories responded to the announcement of July 9, 1970 (35 F.R. 11071, DESI 7055V) and the statements of policy and interpretation regarding animal drugs and medicated feeds October 23, 1970 (35 F.R. 16538) by submitting revised labeling for Triple Sulfa Solution. Their submission was found to be inadequate in that (1) the labeling lacked proper directions for the intravenous route of administration; (2) no data were presented to indicate that 72 hours (6 milkings) after the latest treatment would provide milk free of drug residues; (3) the "caution" statement was not identical to that published in the statement of policy (21 CFR 35.102); and (4) the manufacturing and control portions of the application were not updated. No other data were submitted in response to said announcements.

The FEDERAL REGISTER of September 14, 1971 (36 F.R. 18392) § 135.35 requested that each person holding an approved new animal drug application submit a report on the market status of such products. The manufacturers of the above named drugs advised the Commissioner that these products are no longer marketed.

Based on the grounds set forth in said announcements and the firm's responses, the Commissioner concludes that approval of said new animal drug applications should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA 7–983V, NADA 7–055V, NADA 12–409V, NADA 11–179V, NADA 6–588V, NADA 9–695V, NADA 6–895V, NADA 7–779V and NADA 11–501V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: September 1, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–15268 Filed 9–7–72;8:52 am]

National Institutes of Health

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of the meeting of the Engineering in Biology and Medicine Training Committee, September 8, 1972, at 9 a.m., National Institutes of Health, Building 31C, Conference Room 9. This meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination in order to review, discuss and evaluate, and/or rank grant applications.

Name of the person from whom rosters of the Engineering in Biology and Medicine Training Committee members and/or summary of the meeting may be obtained: Dr. R. Burns Ross.

Dated: August 29, 1972.

JOHN F. SHERMAN,
Acting Director, National Institutes of Health.

[FR Doc.72–15207 Filed 9–7–72;8:46 am]

NATIONAL INSTITUTES OF GENERAL MEDICAL SCIENCES

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Automation in the Medical Laboratory Sciences Review Committee, September 7–8, 1972, at 9 a.m., National Institutes of Health, Building 31C, Conference Room 7. This meeting will be open to the public from 9 a.m. to 5 p.m., September 7, and closed to the public 9 a.m. to 5 p.m., September 8, to review, discuss and evaluate, and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of the Automation in the Medical Laboratory Sciences Review Committee members and/or summary of the meeting may be obtained: Dr. Robert S. Melville.

Dated: August 29, 1972.

JOHN F. SHERMAN,
Acting Director, National Institutes of Health.

[FR Doc.72–15208 Filed 9–7–72;8:46 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Council on Adult Education will be held on September 14, 15, 16, 1972, at the Statler Hilton Hotel, 16th and K Streets NW., Washington, DC. The Council meeting will commence at 5 p.m. on September 14th and terminate at 2 p.m. on September 16th.

The National Advisory Council on Adult Education is established under section 310 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public. The proposed agenda includes:

Council committee reports on legislation, research, publications, and executive committee business.
Council program visitation reports.
Fiscal year 1973 priorities.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 526, Reporters Building, Seventh and D Streets SW., Washington, DC 20202).

Signed at Washington, D.C., on August 30, 1972.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.72–15253 Filed 9–7–72;8:51 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Committee on Education of Disadvantaged Children will be held on September 8, 1972, at 9 a.m., local time in Room 152, 1717 H Street NW., Washington, DC 20006.

The National Advisory Committee on Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411). The Committee is established to advise the President and the Congress as follows:

Statutory obligation:

(a) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(b) The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report.

The meeting of the Committee shall be open to the public as space permits. Reservations must be made by September 7, 1972, due to limited space available. The proposed agenda includes a discussion of other funding sources for title I type activities. Records shall be kept of all committee proceedings (and shall be available for public inspection at the office of the Committee's executive secretary, located in Room 202, 1717 H Street NW., Washington, DC).

Signed at Washington, D.C., on September 1, 1972.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.72-15323 Filed 9-7-72;8:55 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-72-200]

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Delegation of Authority

Correction

In F.R. Doc. 72-14883, appearing on page 17774, in the issue of Thursday, August 31, 1972, the sixth line in "SEC. D. *Authority to redelegate*", should read, "under section A, and authorize further".

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[BS-Ap-No. 707]

UNION PACIFIC RAILROAD CO.

Notice of Hearing

AUGUST 31, 1972.

The Union Pacific Railroad Co. has petitioned the Federal Railroad Administration seeking approval of proposed discontinuance of automatic block signal system on single main track between Oakley, Kans., and Limon, Colo., a distance of 173 miles, and installation of "Stop" signs in lieu of fixed red signals on Union Pacific Railroad at crossing of one track of the Union Pacific Railroad with one track of the Chicago, Rock Island, and Pacific Railroad at Limon, Colo.

The Railroad Safety Board has voted that a public hearing be held before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on September 28, 1972, Room 595, Federal Building, 1961 Stout Street, Denver, CO 80202.

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.

JOHN E. ROURKE,
Chairman, Railroad Safety Board.

[FR Doc.72-15263 Filed 9-7-72;8:51 am]

National Highway Traffic Safety Administration

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Notice of Public Meeting

On September 13 and 14, 1972, the National Motor Vehicle Safety Advisory Council will hold open meetings in Room 2232, DOT Headquarters Building, 400 Seventh Street SW., Washington, DC. The Advisory Council is composed of 22 members, a majority of which are representatives of the general public, including representatives of State and local governments, with the remainder including representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. The Secretary of Transportation consults with the Advisory Council on motor vehicle safety standards promulgated under the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89-563), as amended.

The following meetings will be held:

The Executive Committee of the National Motor Vehicle Safety Advisory Council will meet at 1 p.m. on September 13 with the following agenda:

Proposed reorganization of Council committee structure.

Review of Council bylaws.

Council priorities.

The National Motor Vehicle Safety Advisory Council will meet in regular session on September 14 at 9 a.m. with the following agenda:

Briefing on proposed automatic braking standard.

Report on San Francisco Diagnostic Conference.

Executive Committee report.

Passive Restraint Implementation Committee report.

Status of property damage legislation.

Briefing on Uniform Tire Quality Grading Standard.

Future meetings.

This notice is given pursuant to section 13 of Executive Order 11671, June 5, 1972.

Issued on September 6, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-15394 Filed 9-7-72;10:24 am]

CIVIL SERVICE COMMISSION

GAO AUDITOR AND GAO MANAGEMENT AUDITOR, WORLDWIDE

Notice of Establishment of Minimum Rates and Rate Ranges

Under the authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

GS-510 GAO AUDITOR

GS-343 GAO MANAGEMENT AUDITOR

Geographic coverage: Worldwide.
Effective date: First day of the first pay period beginning on or after October 1, 1972.

PER ANNUM RATES

Grade	1	2	3	4	5	6	7	8	9	10
GS-7	$10,261	$10,563	$10,865	$11,167	$11,469	$11,771	$12,073	$12,375	$12,677	$12,979

All new employees in the specified occupational level will be hired at the new minimum rate.

As of the effective date, the agency will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational level. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, Chapter 571, FPM, the agency may pay the travel and transportation expenses to first post of duty, under 5 U.S.C. 5723, of new appointees to the positions cited.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-15260 Filed 9-7-72;8:51 am]

FEDERAL MARITIME COMMISSION

[Docket No. 72-46; Agreement 57-96]

PACIFIC WESTBOUND CONFERENCE

Extension of Authority for Intermodal Services; Order of Investigation and Hearing

The Pacific Westbound Conference (PWC) has filed Agreement No. 57-96 with the Commission for the Commission's approval under section 15 of the Shipping Act, 1916. This modification would permit the PWC to (a) broaden its geographic scope to include inland points in the United States and inland points in various Asian nations; (b) in effect, establish port-to-point, point-to-point, point-to-port through and joint rates "with inland connecting carriers or associations thereof" in addition to its conventional port-to-port rates; (c) "publish and utilize individual intermodal tariffs covering only traffic from points at Atlantic and Gulf ports and adjacent land carrier terminals" to destination ports or points until such time as the PWC "adopts and effectuates a tariff or tariffs which includes such traffic" at which time the individual tariffs must be canceled; unless "by the conference action required to adopt or amend tariffs, such individual intermodal tariffs or parts thereof are permitted to remain in effect"; (d) subject the individual intermodal tariffs to "all applibale provisions of this Agreement No. 57, as amended, the appendix hereto, the Conference administrative regulations, and rules and conditions".

A protest and request for hearing was filed by Seatrain, Inc., on May 11, 1972.

Seatrain, presently a PWC member, contends that its "landbridge" service does not compete with the PWC's port-to-port services;[1] that Agreement No. 57-96 is per se violative of the antitrust statutes and therefore contrary to the public interest; being contrary to the public interest Agreement No. 57-96 must be justified by an "overwhelming transportation need"; that a need being shown, approval would be detrimental to commerce to the extent that PWC would be established as a competing conference in the same trade as the Far East Conference; and that Agreement No. 57-96 cannot be approved without the evidentiary hearing which Seatrain requests.

In addition to those issues posed generally by Seatrain above, the Commission is concerned over several matters relating to provisions of Agreement 57-96 governing the cancellation of individual intermodal tariffs and the application of the provisions of Agreement 57 to such tariffs. Agreement 57-96 permits the publication of individual intermodal tariffs until the Conference adopts and effectuates a tariff or tariffs which includes "such traffic," at which time such independent tariffs shall be canceled unless permitted by Conference action. Furthermore, independent tariffs are subjected to all provisions of Agreement 57 including presumably those relating to voting and self-policing procedures. The Commission is concerned whether such provisions will have an adverse effect on the development of intermodalism in view of the fact that the standards governing cancellation of individual tariffs are not more clearly defined, that Conference members may be voting on matters related to intermodal traffic and tariffs who may not be offering or participating in such services, and that cargoes carried under independent intermodal tariffs are apparently fully subject to Conference self-policing procedures.

In view of the important questions involved in this proceeding which relate to the role of conferences in the development of intermodalism, the Commission is of the opinion that the proceedings should be conducted with expedition.

Therefore, it is ordered, That a proceeding be instituted pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814, 821) to determine whether Agreement No. 57-96 should be approved, modified, or disapproved in accordance with the standards enunciated in section 15 of the Act.

It is further ordered, That the proceeding determine in particular whether any modification of Agreement 57-96 is warranted in order to establish more clearly defined standards governing the right of the Conference to prohibit its members from establishing their own intermodal tariffs, or in order to restrict the rights of members to vote on matters related to intermodal traffic and tariffs to only those lines who offer and participate in such services, or in order to prohibit the application of Conference self-policing procedures to independent intermodal tariffs published by any of its member lines.

It is further ordered, That the common carriers by water listed below, and the Pacific Westbound Conference be named respondents in this proceeding.

It is further ordered, That this matter be assigned for an expedited hearing before an examiner of the Commission's Office of Hearing Examiners at a date and place to be determined and announced by the presiding examiner.

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provisions of Rule 12(h) which require leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, are similarly waived.

It is further ordered, That notice of this order shall be published in the FEDERAL REGISTER and that a copy thereof

[1] Seatrain's west or outbound "landbridge" tariff utilized the Far East Conference's port-to-port rates for service from North Bergen/Weehawken, N.J./Houston, Tex. to Japan originally. Effective July 15, 1972, the scope of the tariff was expanded to offer service from Baltimore/Boston/Philadelphia/Galveston/Norfolk to Taiwan/Hong Kong as well as Japan.

shall be served upon respondents. Persons, other than respondents and the Commission's Bureau of Hearing Counsel, who desire to become parties to this proceeding and to participate herein, shall promptly file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with copies to respondents and the Director, Bureau of Hearing Counsel, Federal Maritime Commission.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant Secretary.

RESPONDENTS

D. D. Day, Jr., Chairman, Pacific Westbound Conference, 635 Sacramento Street, San Francisco, CA 94111.
American Mail Line, Ltd., 1010 Washington Building, Seattle, WA 98101.
American President Lines, Ltd., 601 California Street, San Francisco, CA 94108.
Barber Lines, A/S, Post Office Box 1330, Vika, Oslo, 1, Norway.
Japan Line, Ltd., Kokusai Building 12, 3, Marunouchi, Chiyoda-Ku, Tokyo, Japan, "Japan Line."
Kawasaki Kisen Kaisha, Ltd., 8 Kaigan-dori, Ikuta-Ku, Kobe, Japan.
Knutsen Line—Joint Service, Knut Knutsen, O.A.S., Haugesund, Norway.
A. P. Moller—Maersk Line—Joint Service, A. P. Moller, 8 Kongens Nytorv, Copenhagen K, Denmark.
Maritime Company of the Philippines, 205 Juan Luna, Manila, Philippines.
Mitsui O.S.K. Lines, Ltd., 36 Hitotsugi-cho, Akasaka, Minato-ku, Post Office Box 6, Akasaka, Tokyo, Japan, "Mitsui O.S.K. Lines."
Nippon Yusen Kaisha, 20, 2-Chome, Marunouchi, Chiyoda-Ku, Tokyo, Japan, "N.Y.K. Line."
Pacific Far East Line, Inc., 141 Battery Street, San Francisco, CA 94111.
Phoenix Container Liners Ltd., Alexandra House, Hong Kong.
Sea-Land Service, Inc., Post Office Box 1050, Elizabeth, NJ 07207.
Seatrain International, S.A., 1395 Middle Harbor Road, Oakland, CA 94607.
Showa Shipping Co., Ltd. (Showa Kaiun Kaisha, Ltd.), Ida Building, No. 1 Yaesu 2-Chome, Chuo-ku, Tokyo, Japan, "Showa Line".
States Steamship Co., 320 California Street, San Francisco, CA 94104, "States Line".
Scindia Steam Navigation Co., Ltd., the, Scindia House, Ballard Estate, Bombay, 1 B.R., India.
Transportacion Maritima Mexicana, S.A., Av. De Los Insurgentes Sur No. 432 Tercer Piso, Mexico 7, D.F.
United Philippine Lines, United Philippines Building, Santa Clara, Intramuros, Manila, R.P.
United States Lines, Inc., One Broadway, New York, NY 10004.
Yamashita-Shinnihon Steamship Co., Ltd., 6th Floor Palaceside Building, No. 1, Takehira-Cho, Chiyoda-Ku, Tokyo, Japan, "Yamashita-Shinnihon Line."
Zim Israel Navigation Co., Ltd. (Zim Container Service Division) (Zim American Israeli Shipping Co., Inc., General Agents), 7/9 Ha'atzmaut Road, Haifa, Israel.

[FR Doc.72-15290 Filed 9-7-72;8:54 am]

[Docket No. 72-47; Agreement 150-54]

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN

Extension of Authority for Intermodal Services; Order of Investigation and Hearing; Denial of Petition To Vacate Commission's Order of Approval

Agreement No. 150-54 was approved by the Commission on March 30, 1972, under section 15 of the Shipping Act, 1916. That modification permitted Trans-Pacific Freight Conference of Japan (TPFCJ) to: (a) Broaden its jurisdiction to include inland points in the United States; (b) in effect, permitted the TPFCJ to establish port-to-point—including through and joint-rates in addition to its conventional port-to-port rates; and (c) prohibited any TPFCJ line from negotiating, establishing, publishing, filing, or operating under "any transportation arrangement except as the Conference may specifically authorize in its tariff".

A comment and protest were filed by American Mail Line, Ltd. (AML), and Seatrain Lines, Inc., respectively. The latter was then operating as a nonconference carrier. The gravamen of the comment and protest was that the approval of the prohibition described in (c) would compel AML to cancel its then effective Interchange Tariff and Seatrain to cancel its "landbridge" or Eastbound Japan Atlantic Coast Joint Container Freight Tariff No. 703 which had been filed with this Commission and with the Interstate Commerce Commission. Tariff No. 703 established "joint import Commodity rates for transportation of commodities in containers via water-rail from ports in Japan to North Bergen/Weehawken, New Jersey". The "joint" rates assessed by Seatrain are the port-to-port rates of the Japan Atlantic & Gulf Freight Conference, not the port-to-port or OCP rates of the TPFCJ.

Subsequent to the filing of the aforesaid comment and protest, the TPFCJ adopted a resolution during its special meeting of March 3, 1972. In effect, this resolution permits any TPFCJ line to publish its own intermodal tariffs covering traffic destined to Atlantic and Gulf ports only until such time as the TPFCJ places into effect its own Conference-wide intermodal tariff, conditioned upon Commission approval of Agreement No. 150-54. The same principle applies to interchange tariffs. Once the TPFCJ adopts and places into effect its own intermodal/interchange tariffs, however, all TPFCJ lines with independent tariffs outstanding would be required to cancel them unless by resolution the Conference would permit them to remain in effect. The resolution further provides that cargoes carried by Conference members under independent intermodal tariffs which are permitted by the Conference are fully subject to the Conference's self-policing provisions including requirements for the reporting of misrating and statistical data.

Following the adoption of the resolution, AML withdrew its comments and urged approval. Although Seatrain did not withdraw its protest, it joined the TPFCJ as of March 23, 1972. Believing that the resolution satisfied the complaints of both lines, the Commission approved Agreement No. 150-54 3 days later.

In its petition for reconsideration dated April 28, 1972, Seatrain contends that reconsideration of the approval of Agreement No. 150-54 is required because the Commission:

(1) Erred in failing to conclude that there is no justification for TPFCJ to have jurisdiction over landbridge services;

(2) Erred in failing to recognize that Agreement 150-54 is detrimental to commerce and contrary to the public interest in that it would place TPFCJ into competition with the Japan Atlantic Gulf Conference ("JAG") for cargoes moving from Japan to the Atlantic Coast and because there is absolutely no factual basis to override the public policy against such per se anticompetitive agreements;

(3) Erred in not considering that the TPFCJ port-to-port service from Japan to Pacific Coast ports will not be disrupted by landbridge services for cargoes destined for Atlantic Coast ports; and

(4) Erred in failing to direct that a hearing be held as required by Section 15 of the Shipping Act, 1916, and the decisions of the Court of Appeals in Marine Space Enclosures, Inc. v. F.M.C., 420 F. 2d 577 (D.C. Cir. 1969) and Seatrain Lines, Inc. v. F.M.C. ——— F. 2d ——— (D.C. Cir. 1972).

Various arguments in support of these contentions are advanced. Seatrain requests that the Commission "* * * reconsider its order approving Agreement 150-54, vacate that approval, and either disapprove the agreement or direct a full evidentiary hearing to be held thereon".

The basic difference between Seatrain's initial protest of Agreement No. 150-54 and its petition for reconsideration is that the former was devoted to its right to retain and implement its eastbound (from Japan) intermodal tariff for the immediate future at least, whereas the petition goes to the merits and legality of the entire modification. The Commission was of the opinion that Seatrain's protest was satisfied by the TPFCJ's resolution, particularly when, after proceeding with its plans to join the Conference and becoming a member of the TPFCJ, Seatrain was permitted to retain and utilize its "landbridge" tariff, does so now, and will do so for the foreseeable future. Accordingly, we see a considerable difference between the circumstances attendant to Marine Space Enclosures, supra, where we were judged to have erred in dismissing a protest which had not been satisfied, and here where the proponents of Agreement No. 150-54 had accommodated the protestant to the extent that Seatrain would not be adversely affected by the approval in the manner it feared, i.e., Seatrain was not compelled to cancel its "landbridge" tariff upon its admittance to the TPFCJ nor upon the approval of Agreement No. 150-54 7 days later.

The Commission approved Agreement No. 150–54 on March 30, 1972, on the basis of the facts before us at the time. None of the allegations now made by Seatrain was presented to the Commission for consideration prior to approval although nothing prevented Seatrain from raising these objections in a timely fashion as far as can be seen from Seatrain's petition. Furthermore, approval of Agreement No. 150–54 was consistent with the Commission's policy of encouraging conferences to develop improved shipping technologies, including intermodalism. The Commission is also aware of a number of independent intermodal tariffs in addition to Seatrain's which have been and are continuing to be filed in the subject trade area with possible unstabling effects.

In view of the above facts, especially the fact that Seatrain is permitted to retain and utilize its "landbridge" tariff, the Commission is of the opinion that vacation of the order of approval would not be justified. However, since the contentions now raised by Seatrain pose serious questions regarding the lawfulness of Agreement No. 150–54 [1] the Commission is of the opinion that an investigation should be instituted in response to Seatrain's alternative request for a full evidentiary hearing to determine whether Agreement No. 150–54 merits continued approval and to afford Seatrain ample opportunity to develop facts and prove the specific contentions now raised in its petition for reconsideration.

In addition to these various questions raised by Seatrain the Commission is concerned over several matters relating to the resolution of March 3, 1972, permitting Conference members to publish their own intermodal tariffs until such time as the Conference places into effect a Conferencewide intermodal tariff and subjecting cargoes carried under such individual intermodal tariffs to the Conference's self-policing system including requirements for reporting of statistical data. The Commission is concerned whether the provisions of the resolution will have an adverse effect on the development of intermodalism in view of the fact that the standards requiring the cancellation of individual intermodal tariffs are not clearly defined, the Conference's self-policing system would be applied to such independent tariffs, and Conference members may be voting on matters related to intermodal traffic and tariffs who may not be offering or participating in such services.

[1] In addition to the contentions referred to above, in its petition Seatrain also alleges that Agreement No. 150–54 is per se violative of the antitrust statutes and must be justified in order for its approval to be compatible with the public interest, that there is no competitive nexus between its "landbridge" service and the TPFCJ's port-to-port service particularly so that the modification cannot be justified, and that approval of Agreement No. 150–54 permits an arrangement sanctioning interconference competition in the same trade, a practice hitherto condemned by the Commission.

In view of the important questions involved in this proceeding which relate to the role of conferences in the development of intermodalism, the Commission is of the opinion that the proceeding should be conducted with expedition.

Therefore, it is ordered, That a proceeding be instituted pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814, 821) to determine whether Agreement No. 150–54 should be disapproved, canceled, or modified, in accordance with the standards enunciated in section 15 of the Act.

It is further ordered, That the proceeding determine in particular whether any modification of Agreement No. 150–54 is warranted in order to establish more clearly defined standards governing the cancellation of individual intermodal tariffs published by Conference members or in order to restrict the rights of members to vote on matters related to intermodal traffic and tariffs to only those lines who offer and participate in such services, or in order to prohibit the application of Conference self-policing procedures to independent tariffs published by any of its member lines.

It is further ordered, That the common carriers listed below, and the Trans-Pacific Freight Conference of Japan be named respondents in this proceeding.

It is further ordered, That this matter be assigned for an expedited hearing before an examiner of the Commission's Office of Hearing Examiners at a date and place to be determined and announced by the presiding examiner.

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written testimony if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provisions of Rule 12(h) which require leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, are similarly waived.

It is further ordered, That notice of this order shall be published in the FEDERAL REGISTER and that a copy thereof shall be served upon respondents. Persons, other than respondents and the Commission's Bureau of Hearing Counsel, who desire to become parties to this proceeding and to participate herein, shall promptly file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with copies to respondents and the Director, Bureau of Hearing Counsel, Federal Maritime Commission.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant Secretary.

RESPONDENTS

James E. Mazure, Chairman, Trans-Pacific Freight Conference of Japan, Second Floor, Sumitomo Seimei Yaesu Building, 3, Yaesu 4-chome, Chuo-ku, Tokyo 104, Japan.
American Mail Line, Ltd., 1010 Washington Building, Seattle, WA 98101.
American President Lines, Ltd., 601 California Street, San Francisco, CA 94108.
Barber Lines A/S, Norske Folks Building, Second Floor, Ruselφkkvelen 26, Oslo, Norway.
Compania Peruana De Vapores, Gammara 676—Chucuito, Apartado 208—Callao, Peru.
Japan Line, Ltd., Kokusai Building, 1–1, Marunouchi 3-chome, Chiyoda-ku, Tokyo 100, Japan.
Kawasaki Kisen Kaisha, Ltd., 8, Kaigandori, Ikuta-ku, Kobe 650, Japan.
Knutsen Line—Joint Service, Knut Knutsen O.A.S., Post Office Box 173, N–5501, Haugesund, Norway.
Mitsui O.S.K. Lines, Ltd., 3–3, Akasaka 5-chome, Minato-ku, Tokyo 107, Japan.
Nippon Yusen Kaisha, 3–2, Marunouchi 2-chome, Chiyoda-ku, Tokyo 100, Japan.
Pacific Far East Line, Inc., One Embarcadero Center, San Francisco, CA 94111.
Phoenix Container Liners Ltd., Alexandria House, Post Office Box 56, Hong Kong.
Sea-Land Service, Inc., Terminal and Fleet Streets, Post Office Box 1050, Elizabeth, NJ 07207.
Seatrain International, S.A., 1395 Middle Harbor Road, Oakland, CA 94607.
Showa Shipping Co., Ltd., Muromachi Building 1, Nihonbashi-Muromachi 4-chome, Chuo-ku, Tokyo 103, Japan.
States Steamship Company, 320 California Street, San Francisco, CA 94104.
Transportacion Maritima Mexicana, S.A., Av. de Los Insurgentes Sur No. 432, Tercer Piso, Mexico 7 D.F., Mexico.
United States Lines, Inc., 1 Broadway, New York, NY 10004.
Yamashita-Shimmihon Steamship Co., Ltd., Palaceside Building 1–1, Hitotsubashi 1-chome, Chiyoda-ku, Tokyo 100, Japan.
Zim Container Service F.E., 207/209 Hamegi-nim Avenue, Haifa, Israel.

[FR Doc.72–15289 Filed 9–7–72;8:54 am]

PORT OF PORTLAND AND PACIFIC INLAND NAVIGATION CO., INC.

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 15 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:

Brian J. Freeman, Esq., staff Attorney, Port of Portland, Post Office Box 3529, Portland, OR 97208.

Agreement No. T-2659, between the Port of Portland (Port) and Pacific Inland Navigation Co., Inc. (PIN), provides for the 5-year nonexclusive preferential use by PIN of a barge dock and container yard located at Portland, Oreg., which is to be used in connection with the handling of cargoes in the Hawaiian trade. The Port retains secondary berthing rights for the facility. As compensation, the Port is to receive all wharfage charges, which are to be applied against a minimum annual payment amortizing the construction cost of the facility, plus all other applicable tariff charges.

By order of the Federal Maritime Commission.

Dated: September 5, 1972.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.72-15288 Filed 9-7-72;8:54 am]

FEDERAL POWER COMMISSION

[Docket No. RP72-6]

EL PASO NATURAL GAS CO.

Order Requiring Limited Re-Opening of the Record, Fixing Date of Hearing, and Specifying Procedures

SEPTEMBER 1, 1972.

On July 6, 1971, El Paso Natural Gas Co. (El Paso) filed proposed revised tariff sheets that would allocate the firm reliable mainline capacity of its Southern Division system and provide new priorities of service to be utilized in the event that a gas supply shortage necessitated curtailment of deliveries below that capacity. On August 5, 1971, the Commission suspended the tariff for the full statutory 5-month period and set the case for hearing. On May 18, 1972, the presiding examiner closed the record after 46 days of hearing and established dates for the submission of briefs by all parties. Initial briefs were served by July 21, 1972, and reply briefs are to be served on or before September 5, 1972.

On August 17, 1972, El Paso filed a motion for the issuance of a commission order prescribing interim emergency service rules and regulations to govern the curtailment of deliveries of natural gas. Therein El Paso urges that the Commission establish a temporary curtailment procedure to be effective until a final Commission order respecting El Paso's proposed plan is issued and judicial review thereof completed. In support of its motion, the company expresses its belief that any decision to place its proposed tariff changes into effect would be unsound from a business standpoint in view of staff's position that the allocation portion thereof constitutes an abandonment of service and the company's general exposure to damages if the Commission decides not to override certain existing contractual provisions. Consequently, El Paso has decided not to put the proposed tariff into effect on September 1, 1972, as originally planned.

Therefore, El Paso asserts, it is faced with two alternatives—to curtail in accordance with its existing tariff or to request emergency relief from the Commission. El Paso also announces its belief that curtailment under the presently effective priorities of service would not be in the public interest. As interpreted by El Paso, the existing tariff and contractual relationships provide for curtailment in the following order: (1) Sales made for irrigation purposes; (2) service rendered to all east-of-California direct industrial customers; (3) service rendered to all east-of-California resale customers; and (4) service rendered to all California resale customers. El Paso claims that under the company's most recent supply estimates curtailment of 90 Bcf of natural gas will be required during the 12-month period beginning November 1, 1972, 41 Bcf of which must occur during the 1972–73 winter heating season. El Paso estimates that if curtailment takes place under the existing priorities, the east-of-California resale customers will have to curtail deliveries to commercial users on a peak day under normal weather conditions. At such time service to the east-of-California direct customers would be completely cut off.

For these reasons, El Paso believes it appropriate to request immediate emergency action by the Commission. Inasmuch as curtailments are scheduled to begin on November 1, 1972, and a Commission decision on the merits of its proposal before that date is unlikely, El Paso states that a Commission order must be issued at least by that date and preferably in advance thereof to permit El Paso and its customers a period of adjustment. Finally, El Paso suggests that its proposed tariff changes represent the most logical plan to put into effect during the interim in view of the familiarity that its customers have with the manner in which it will operate and, therefore, urges adoption thereof.

By motion filed August 24, 1972, Salt River Project Agricultural Improvement and Power District (Salt River) moved for a reopening of the record for the limited purpose of permitting El Paso to present evidence on its present gas supply status. Asserting that the existing record does not reflect El Paso's recently-discovered supply shortage, Salt River states that the Commission should refrain from ruling on the motion until such evidence is received. Salt River also expresses its belief that Commission action before November 1, 1972, is necessary and that the hearing requested will not interfere with the briefing schedule established by the presiding examiner. In a response filed August 25, 1972, El Paso recommended approval of Salt River's motion. El Paso further stated that its evidence could be in the hands of the participants by August 30, 1972.

The Commission has repeatedly indicated its willingness to afford extraordinary relief from the operation of an effective curtailment plan upon an evidentiary showing that such relief is appropriate.[1] In so doing, it was not our intention to establish procedures that would encourage parties to seek Commission action of a type that would approach a ruling on the merits of a curtailment plan. In most instances where the pipeline is presented with two options of its own making and is reluctant to elect to proceed with either, we would be quite hesitant even to entertain the request. Nevertheless, the situation as described by El Paso may necessitate the fashioning of emergency procedures governing deliveries on the Southern Division System while a decision on the merits is pending. The far-reaching nature of any action that may be taken by the Commission requires, however, the development of a record demonstrating sufficient justification therefor. Because the data which forms the basis for El Paso's request was allegedly developed subsequent to the close of the record, it is appropriate that the record be reopened to permit El Paso to offer this data as well as any other evidence it deems necessary in support of its motion. Because El Paso has a working knowledge of its customers' present needs, this evidence should include possible interim alternatives to the company's proposed plan which could be submitted without prejudice thereto. At the time of hearing, other parties to the proceeding, as well as the Commission staff, will likewise be permitted to present proposals for curtailment on an interim basis. Such proposals should cover at least the 1972–73 winter heating season, but should not be intended to apply beyond October 31, 1973, or the date of a final Commission order, whichever occurs first.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the record herein be reopened for the limited purpose of taking evidence on the need for interim curtailment provisions and on the form such provisions should take.

(2) The public interest likewise requires that the disposition of this aspect of these proceedings be expedited in ac-

[1] See order denying motion to terminate proceeding and to require staff to prepare and circulate environmental impact statement, issued in this docket, Aug. 22, 1972, at p. 7.

cordance with the procedures set forth below.

The Commission orders:

(A) The motion of Salt River Project Agricultural Improvement and Power District is granted insofar as it requests a limited reopening of the record.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, and 15 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 on September 12, 1972, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the need for interim emergency service rules to govern the curtailment of natural gas deliveries on El Paso's Southern Division System and, if such need exists, the form such interim provisions should take. The hearing shall begin with admission into the record of El Paso's direct case in support of its motion for immediate Commission action, followed by cross-examination of El Paso's witness or witnesses. Except for very brief recesses which may be allowed by the presiding examiner upon a showing of good cause therefor, the hearing shall go forward immediately with any direct testimony the intervenors and the Commission Staff may wish to offer, followed by cross-examination thereon, and rebuttal, if any, by El Paso with cross-examination thereon.

(C) On or before September 8, 1972, El Paso shall prepare and file with the Commission and serve on the Commission Staff and all parties to this proceeding its direct testimony and exhibits in support of the motion. Parties to the proceeding and the Commission staff should have written copies of any testimony to be offered available for all participants at the beginning of the hearing and should attempt to make such information available at an earlier date if possible.

(D) A presiding examiner to be designated by the Chief Examiner for that purpose [see Delegation of Authority, 18 CFR 3.5(d)] shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-15225 Filed 9-7-72;8:48 am]

[Docket No. CI73-139]

GEORGE MITCHELL & ASSOCIATES, INC.

Notice of Application

SEPTEMBER 5, 1972.

Take notice that on August 28, 1972, George Mitchell and Associates, Inc. (applicant), 3900 One Shell Plaza, Houston, TX 77002, filed in Docket No. CI73-139 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 Natural Gas Pipeline Co. of America from Seven Oaks, North Field, Polk County, Tex., 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 approximately 46,500 Mcf of gas per month for 12 months at the rate of 35.0 cents per Mcf at 14.65 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 15, 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.72-15221 Filed 9-7-72;8:47 am]

[Docket No. CI73-140]

HUMBLE OIL & REFINING CO.

Notice of Application

SEPTEMBER 5, 1972.

Take notice that on August 28, 1972, Humble Oil & Refining Co. (applicant), Post Office Box 2180, Houston, TX 77001, filed in Docket No. CI73-140 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 Northern Natural Gas Co. from the North Barstow Field, Ward County, Tex., 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 approximately 90,000 Mcf of gas per month for a period of 1 year at the rate of 35 cents per Mcf at 14.65 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 15, 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 otherwsie advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-15222 Filed 9-7-72;8:47 am]

[Docket No. CP64-268 and CP70-313]

LONE STAR GAS CO.

Notice of Application; Correction

AUGUST 25, 1972.

In the notice of application, issued August 9, 1972, and published in the FEDERAL REGISTER August 12, 1972, 37 F.R.

16437: Change Item 42 to read "25.87 miles of 14-inch line S–2 and appurtenances in Smith County, Tex.;".

Delete items 46 and 47.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–15233 Filed 9–7–72;8:48 am]

[Docket No. RP73–6]

MISSISSIPPI RIVER TRANSMISSION CORP.

Order Suspending Proposed Tariff Provisions, Permitting Interventions, and Establishing Hearing and Conference Procedures

AUGUST 31, 1972.

On July 28, 1972, Mississippi River Transmission Corp. (MRT) submitted for filing revised tariff sheets[1] to its presently effective FPC Gas Tariff, First Revised Volume No. 1, constituting its permanent curtailment plan and modifications of other paragraphs to allegedly make those sections compatible with the proposed curtailment plan.

MRT proposed that the tariff sheets become effective on September 1, 1972. MRT requested that in the event the Commission determines to suspend the effectiveness, the suspension period should be limited to 1 day.

Protests to the proposed tariff changes and petitions to intervene have been filed by some of MRT's customers. Additionally, one petitioner, Laclede Gas Co. (Laclede) requests that suspension of the proposed tariff sheets be suspended for the full statutory period and a protestant, Union Electric Co. (Union), requests that the tariff sheets be suspended until hearings on the fairness and reasonableness of such proposals have been held.

In support of its request for a 1-day suspension period, MRT states that such period would be necessary to assemble certain customer data as a prerequisite to implementation of the proposed plan. Impliedly, MRT asserts that there is an element of urgency which requires the earliest possible effective date of the revised tariff. Both Union and Laclede maintain that there is already an existent curtailment plan and that the proposed revisions are unreasonable and unfair and would, or could, work great hardship upon them if made effective at the earlier date.[1a] MRT on August 28, 1972, filed an answer to their objections alleging that one of its customers had instituted a new interruptible boiler fuel sale that, under its existing tariff provision, would be served at a time when MRT's firm industrial sales would be curtailed. Additionally, MRT asserts that Laclede has refused to supply the data under the proposed curtailment plan until that plan becomes effective.

MRT claims on the one hand that its present plan is inequitable and its customers on the other hand claim that the proposed plan favors MRT's direct industrial sales. Thus, the length of the suspension period is important, since MRT may have to invoke curtailment procedures during this heating season. Our decision is to suspend the proposed plan for the full 5-month statutory period with the hope that our procedures hereinafter set forth will permit the parties to reach some accord on an interim plan that could be made effective for this heating season. Accordingly, we will require MRT and its customers to file testimony and evidence at an early date and then require an early conference to be convened in order to have the parties attempt to develop an interim plan. A report of that conference will be required to be submitted by MRT on or before November 15, 1972, with separate comments attached by staff and the intervenors, if an agreed-upon report cannot be drafted. We anticipate that all parties to that conference will diligently strive to reach an accord on an interim plan and in the event that such a plan cannot be agreed to, we will then upon motion by MRT reconsider MRT's request for a shortened suspension period.

On the date hereinafter ordered, MRT will be required to file and serve its testimony and exhibits in support of its proposed plan upon all parties and staff. That evidence should include, inter alia, backup supply, demand, end-use, and other data upon which the curtailment plans are based. Concurrent with MRT's filing, each customer will be required to file and serve, in proper evidentiary form, the data required by MRT under its proposed curtailment plan upon all parties and staff. Inasmuch as MRT may not have present and historical data on end-use patterns, we invite detailed submissions by MRT's customers so that end-use determinations can be made as accurately as possible. In the event any of MRT's customers do not provide such data, we direct our Staff to reconstruct the end-use data for each nonparticipating customer on the basis of available information in order to provide a full evidentiary record. Following distribution of this evidence, the conference referred to above shall be convened on the date hereinafter ordered. The conference may, of course, consider resolution of all of the issues involved in this proceeding as well as this heating season's interim plan. In the event that settlement of all issues is not reached, the Examiner will then proceed to establish further procedural dates for the expeditious hearing, which is required by the issues involved herein.

Petitions requesting leave to intervene in this proceeding and a notice of intervention were timely filed by the following petitioners:

Laclede Gas Co.
Arkansas Louisiana Gas Co.
Illinois Power Co.
Industrial Gas Users Conference.[2]
Union Electric Co.[3]
The Missouri Public Service Commission.

The Commission finds:

(1) The proposed changes to MRT's FPC Gas Tariff have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the proposed tariff provisions be suspended and the use thereof deferred as herein provided.

(3) In the event Commission determination of the proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in the proceeding into effect after the suspension period in the manner prescribed by the Natural Gas Act, all subject to refund with interest, while pending Commission determination as to their justness and reasonableness, is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

(4) The participation in this proceeding of the above-named petitioners may be in the public interest.

(5) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes in MRT's FPC Gas Tariff and that the issues in this proceeding be scheduled for hearing in accordance with the procedures herein set forth.

The Commission orders:

(A) Pending hearing and decision on issues relating thereto, the revised tariff sheets, filed July 28, 1972, by MRT to its effective FPC Gas Tariff, First Revised Volume No. 1, are suspended and the use thereof deferred until February 1, 1973, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) MRT and its customers shall file and serve upon all parties and staff on or before September 27, 1972, their testimony and exhibits as indicated in the recital above.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections

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[1] The tariff sheets are designated as follows: Thirteenth Revised Sheet No. 4; Ninth Revised Sheet No. 5; Eighth Revised Sheet No. 6; Third Revised Sheet No. 7A; Sixth Revised Sheet No. 7B; First Revised Sheet No. 7C; Fourth Revised Sheet No. 23; Original Sheet Nos. 23A through 23H; and First Revised Sheet Nos. 25 and 26.

[1a] On August 31, 1972, Illinois Power Co. filed a telegram supporting the supplement to protest and petition to intervene filed by Laclede in this proceeding.

[2] Petitioning to intervene under the collective name of Industrial Gas Users Conference are the following natural gas consumers who also seek to intervene individually; American Steel Foundries; Cerro Copper & Brass Co.; Consolidated Aluminum Corp.; Granite City Steel Co.; Laclede Steel Co.; NL Industries, Inc.; NL Industries, Inc. (Titanium Division); Olin Corp.; Owens-Illinois, Inc.; and Pfizer, Inc.

[3] Union Electric Co.'s filing in the form of a protest is impliedly a petition to intervene and will be treated as such.

4, 5, and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on October 3, 1972, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, for the purpose of incorporating into the record the testimony and exhibits required to be filed and served by paragraph (B) above. Immediately thereafter the Presiding Examiner will recess the hearing and a conference will be convened for the purposes stated above. In the event that a settlement of all of the issues does not result from said conference, the Presiding Examiner will then schedule procedural dates for the expeditious hearing of this proceeding and will rule on all data requests and other relevant matters presented at such hearing.

(D) On or before October 17, 1972, MRT shall submit a report of the results of the conference in reaching agreement on an interim curtailment plan for the coming heating season. Intervenors and staff may submit concurrent comments with that report.

(E) In light of our foregoing comments nothing herein should be construed as precluding MRT from filing a motion, concurrent with its report required by (D) above, seeking a shortened suspension period of the tariff sheets herein suspended.

(F) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in the respective 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 because of any order or orders issued by the Commission in this proceeding.

(G) A Presiding Examiner to be designated by the Chief Examiner—see Delegation of Authority, 18 CFR, 315(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-15226 Filed 9-7-72;8:48 am]

[Docket No. CP73-15]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Extension of Time

SEPTEMBER 1, 1972.

On August 30, 1972, Natural Gas Pipeline Co. of America filed a request for an extension of time within which to answer the petitions to intervene filed by Consolidated Edison Co. of New York, Inc., and Associated Gas Distributors, on August 15, 1972.

Upon consideration, notice is hereby given that the time is extended to and including September 8, 1972, within which Natural Gas Pipeline Co. of America may answer the petitions to intervene filed by Consolidated Edison Co. of New York, Inc., and Associated Gas Distributors.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-15227 Filed 9-7-72;8:48 am]

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-NATURAL GAS TECHNOLOGY

Order Designating a New Member

SEPTEMBER 1, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. Membership. A new member to the Supply-Technical Advisory Task Force-Natural Gas Technology, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Dr. Gerald W. Johnson, Director, Division of Applied Technology, Atomic Energy Commission.

Dr. Johnson will fill the position vacated by the resignation of Mr. John S. Kelly, Atomic Energy Commission, from this task force.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-15231 Filed 9-7-72;8:48 am]

[Docket No. RP72-127]

NORTHERN NATURAL GAS CO.

Further Notice of Proposed Changes in Rates, Charges, and Tariff Provisions

SEPTEMBER 1, 1972.

Take notice that Northern Natural Gas Co. (Northern) tendered for filing on May 19, 1972, proposed changes in its FPC gas tariff. That tender was noticed in the FEDERAL REGISTER (37 F.R. 11212) on June 3, 1972, and was suspended by Commission order issued June 30, 1972. The proposed changes are under suspension until December 3, 1972, and until made effective by Northern in accordance with the requirements of the Natural Gas Act.

The previous notice reflected, inter alia, the fact that Northern was proposing a revision to its tariff that will give Northern authority to conserve available sources of gas supply to assure deliveries of gas to residential, small volume commercial, and small volume industrial customers. However, the notice inadvertently neglected to reflect the fact that Northern's proposed conservation plan may result in a total abandonment of certain services to some of its customers. Under its proposal, Northern seeks the right to invoke curtailment procedures to conserve gas including, inter alia, curtailment of deliveries below contract demand to preclude direct or indirect "EG plant sales" that are defined as gas used in electrical generation plants when made in the volumes specified in the tendered tariff revisions. Accordingly, if the plan is approved as proposed, authorization under section 7(b) of the Act may be required by Northern to abandon those services. Northern, in its transmittal letter, recognized that possibility and, consequently, "out of an abundance of caution," requested such authorization.

Northern's proposed tariff revisions are on file with the Commission and are available for public inspection.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-15228 Filed 9-7-72;8:48 am]

[Docket No. RP73-7]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Order Suspending Proposed Revised Tariff Sheets, Providing for Hearing, and Permitting Interventions

AUGUST 31, 1972.

On July 31, 1972, South Texas Gas Gathering Co. (South Texas) tendered for filing proposed changes in its rates under FPC Rate Schedules Nos. 1 and 2. South Texas says that its proposed rates are in accord with the prices provided in its producer type sales contracts and are based on the test year ended March 31, 1972. South Texas contends that because of the producer type sales contracts, the rate of return earned after the proposed rate increase will be a negative 7.53 percent.

The proposed changes would increase South Texas' annual revenues by $1,240,251 under Schedule No. 2 with respect to Transco and $96,406 under Schedule No. 1 with respect to Natural for a total of $1,336,657. The bases of this total are increases in its rates from 19.50 cents to 21.55 cents per Mcf under Rate Schedule No. 1 and from 19.58 cents to 22.05 cents per Mcf under Rate Schedule No. 2.

South Texas asks that the Commission waive the requirements of § 154.63(b)(3) of its regulations which require the filing

of Statement P material within 15 days of the date of filing. South Texas also requests that the proposed rate changes go into effect without suspension or hearing. But if the Commission should suspend the proposed rate changes, South Texas wishes to file the Statement P material within 15 days of the end of the suspension period.

The rates are proposed to become effective September 1, 1972.

The proposal was noticed on August 8, 1972, with petitions to intervene or protests due on or before August 21, 1972. Petitions to intervene were filed by Transcontinental Gas Pipe Line Corp. (Transco), Philadelphia Gas Works Division of UGI Corp. (PGW), Natural Gas Pipeline Company of America (Natural), and Public Service Electric and Gas Co. (Public Service).

A review of the subject rate filing indicates that the proposed rates may be excessive, unduly discriminatory, or otherwise unjust and unreasonable. The allegations made in support of the increased rates and the arguments against them raise questions best resolved through a public hearing. Hence, a hearing will be held to determine the lawfulness of the proposed rates, and the rates will be suspended for 1 day in accordance with section 4(e) of the Natural Gas Act.

The Commission finds:

(1) South Texas' tariff sheets should be accepted for filing.

(2) South Texas' request that its Statement P material be filed within 15 days of the suspension date should be granted.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in South Texas Natural Gas Gathering Co. FPC Rate Schedules Nos. 1 and 2, as proposed to be amended in this docket, and that the tendered tariff sheets be suspended as hereinafter provided.

(4) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(5) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(6) Participation of the above-named persons in this proceeding may be in the public interest.

The Commission orders:

(A) South Texas' request that its Statement P material be filed within 15 days of the suspension date is granted.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held, commencing with a prehearing conference on January 23, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in South Texas Gas Gathering Co. FPC Rate Schedules Nos. 1 and 2, as proposed to be amended herein.

(C) At the prehearing conference on January 23, 1973, South Texas' prepared testimony (Statement P) together with its entire rate filing shall be submitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference prepared to effectuate the intent and purpose of § 2.59 of the Commission's rules of practice and procedure.

(D) On or before December 19, 1972, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before January 4, 1973. Any rebuttal evidence by South Texas shall be served on or before January 16, 1973. The public hearing herein ordered shall convene on January 30, 1973, at 10 a.m., e.s.t.

(E) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(F) South Texas' tariff sheets are accepted for filing and pending hearing and decision thereon, those sheets are suspended for 1 day and the use thereof deferred until September 2, 1972, and until such further time as they are made effective in the manner provided in the Natural Gas Act.

(G) The above-listed intervenors are granted permission to intervene.

(H) Each of the petitioners for intervention listed above is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any orders entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-15232 Filed 9-7-72;8:48 am]

[Docket No. CI73-63]

SOUTHERN UNION GATHERING CO.

Notice Denying Motion for Extension of Time

AUGUST 31, 1972.

On August 21, 1972, Aztec Oil & Gas Co. filed a motion for an extension of time within which to file a supplemental response in the above-designated proceeding. The "Notice of Petition for Declaratory Order or Application for Permission and Approval to Abandon Certain Natural Gas Purchases," issued August 3, 1972, required that petitions to intervene or protests be filed by August 25, 1972. On August 22, 1972, Southern Union Gathering Co. filed an answer opposing the motion.

Upon consideration, notice is hereby given that the motion for an extension of time is denied.

KENNETH F. PLUMB, *Secretary.*

[FR Doc. 72-15206 Filed 9-7-72;8:46 am]

[Docket No. CI73-141]

VALOR LAND & EXPLORATION CO.

Notice of Application

SEPTEMBER 5, 1972.

Take notice that on August 28, 1972, Valor Land & Exploration Co. (Applicant), 1711 Esperson Building, Houston, Tex. 77002, filed in Docket No. CI73-141 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 Transcontinental Gas Pipe Line Corp. from the West Mermentau Field, 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 approximately 874.10 Mcf of gas per month for a term of 36 months, at the rate of 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 15, 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 Fed-

eral 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.72-15223 Filed 9-7-72;8:47 am]

[Docket No. RI73-44]

GETTY OIL CO.

Order Allowing Rate Change and Providing for Hearing

AUGUST 30, 1972.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A below.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI73-44	Getty Oil Co.	[1] 37	20	Texas Gas Transmission Corp. (Lewisburg Field, Acadia and St. Landry Parishes, South Louisiana).	$18,502	7-31-72		9-1-72	[2] 22.375	[3] 26.0	
	do	[4] 9	17	Tennessee Gas Pipeline Co. (Mustang Island Field, Nueces County, Tex., RR. District No. 4).	44,522	7-31-72		9-1-72	19.0	[5] 24.0	
	do	[6] 13	26	Tennessee Gas Pipeline Co. (East Bay City Field, Matagorda County, Tex., RR. District No. 3).	96,144	7-31-72		9-1-72	19.0	[5] 24.0	
	do	[7] 19	28	Transcontinental Gas Pipe Line Corp. (West Bernard Field, Wharton County, Tex., RR. District No. 3).	64,906	7-31-72		9-1-72	19.0	[8] 24.0	

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] The pressure base is 15.025 p.s.i.a.
[2] Area rate established in Opinion No. 598 for gas sold under contracts dated prior to Oct. 1, 1968.
[3] Area rate established in Opinion No. 595 for gas sold under contracts dated prior to Oct. 1, 1968.
[4] Increase to area rate. Contract rate is 25 cents.
[5] Ex parte increase to area rate established for new gas (after Oct. 1, 1968).
[6] Basic contract (Apr. 30, 1948) expired Dec. 1, 1970.
[7] Basic contract (July 15, 1948) expired. Replaced by Mar. 22, 1971 agreement extending contract term and providing for new prices.
[8] Basic contract (Feb. 28, 1950) expired Nov. 1, 1970. Replaced by May 1, 1971 agreement extending contract term and providing for new prices.
[9] Basic contract (Oct. 10, 1940) expired Jan. 1, 1972. Replaced by Apr. 3, 1972 contract extending contract term and providing for new prices.

As to the subject sales made by Getty Oil Co. in the Texas Gulf Coast Area, the question presented here is whether the subject gas is entitled to an area rate of 19 cents, which is the rate established in Opinion No. 595, Dockets Nos. AR64-2 et al., issued May 6, 1971, for gas sold under contracts dated prior to October 1, 1968, or an area rate of 24 cents which applies to contracts dated on or after October 1, 1968. As justification for the proposed 24-cent rate, Getty claims that the gas now being delivered under the subject rate schedules was never committed to the expired contracts included in these rate schedules, and that such gas qualifies as new gas within that term as used in Opinion No. 595. The proposed increases should be suspended for 1 day from the expiration of the statutory notice period, pending determination as to whether the gas involved herein is entitled to the new or old gas price.

Correlatively, if in fact the gas now being delivered under the subject rate schedules is new gas, there is question of whether a certificate should not be issued to Getty to continue to make the sales of such gas.

As to the subject sale made by Getty under Supplement No. 20 to its FPC Gas Rate Schedule No. 37, in South Louisiana the question presented is whether the subject gas is entitled to an area rate of 22.375 cents, which is the rate established in Opinion No. 598, Dockets Nos. AR61-2 and AR69-1 et al., issued July 16, 1971, for gas sold under contracts dated prior to October 1, 1968, or an area rate of 26 cents which applies to contracts dated on or after October 1, 1968. As justification for the proposed 26-cent rate, Getty claims that the gas previously sold under its terminated old contract and now sold under an April 3, 1972, contract qualifies as new gas within that term as used in Opinion No. 598.

In order to resolve the aforementioned questions, as expeditiously as possible, and to expedite the hearing provided for in ordering paragraph A, supra, a prehearing conference shall be held in accordance with § 1.18(c) of the rules of practice and procedure, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on September 19, 1972, at 10 a.m., e.d.s.t., concerning the issues hereinbefore discussed.

After convening the prehearing conference provided for herein, the presiding examiner may recess the same to provide the parties hereto an opportunity for the submission and consideration of facts, arguments, offers of settlement or stipulation can be reached by the parties hereto after reasonable time and provision has been made for the same, the procedural dates for service of prepared testimony and exhibits, and for hearings on the issues herein shall be fixed by the presiding examiner.

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(1)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1 et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464), issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act [15 U.S.C. 717c(d)] in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinions Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate, and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-15111 Filed 9-7-72;8:49 am]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Order Approving Acquisition of Banks

Barnett Banks of Florida, Inc., Jacksonville, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has filed separate applications for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Westchester National Bank of Dade County, Miami, Fla. (Westchester Bank), and Midway National Bank, Miami, Fla. (Midway Bank).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is Florida's third largest banking organization and controls 34 banks with total deposits of $1.0 billion, representing 6.4 percent of total deposits in commercial banks in the State. (All banking data are as of December 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through July 31, 1972.) The acquisition of Westchester Bank ($17.3 million deposits) and Midway Bank ($2.7 million deposits) would increase Applicant's share of State deposits by 0.1 percentage points, and Applicant's rank among banking organizations in Florida would not change.

Westchester and Midway Banks are located in Dade County where they control 0.48 and 0.07 percent, respectively, of deposits in this banking market. Although subject banks are located only 3 miles apart, they do not actively compete with each other. Midway Bank was established in April 1971 by directors of Westchester Bank and is the only bank in its primary service area. Westchester Bank ranks as the smallest bank in its immediate service area. Both banks are under common ownership, control, and management. It appears that no significant present or potential competition would be eliminated by consummation of this proposal.

Applicant presently controls 2.8 percent of the Dade County banking market deposits through three subsidiary banks (representing aggregate market deposits for each of $63.6, $26, and $9.7 million, respectively) and ranks as the market's ninth largest banking organization. Consummation of this proposal would represent an increase in Applicant's control of market deposits by only 0.5 percentage points. Applicant's present subsidiaries in Dade County are located 23, 16, and 10 miles, respectively, from the Westchester and Midway Banks' offices. There is no significant present competition between any of Applicant's subsidiaries and subject banks. Due to Florida's restrictive branching laws and the highly banked areas which intervene, it appears that no substantial amount of future competition would be eliminated by consummation of this proposal. Therefore, competitive considerations are consistent with approval of the applications.

The financial condition of Applicant and its subsidiaries are considered to be generally satisfactory in view of Applicant's plans to improve the capital positions of its subsidiaries where a need exists; management for the system is also considered to be generally satisfactory, and prospects for the group appear favorable. The financial condition and management of Westchester and Midway Banks are deemed satisfactory, and prospects for each appear favorable. Banking factors are, therefore, consistent with approval of the applications. Although the proposed affiliation with Applicant would not introduce new services to the market, it would better enable each bank to respond to the increasing financial needs in the expanding western section of the county which they serve. Specialized banking services of Applicant would be made available to both Westchester and Midway Banks, and the quality and quantity of the banking services offered by each would be improved. Accordingly, considerations relating to the convenience and needs of the communities to be served are consistent with and lend some support toward approval of the applications. It is the Board's judgment that the proposed transactions would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective August 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-15234 Filed 9-7-72;8:48 am]

BEZANSON INVESTMENTS, INC., AND MORAMERICA FINANCIAL CORP.

Order Denying Acquisition of Bank

Bezanson Investments, Inc., Cedar Rapids, Iowa, and its subsidiary, MorAmerica Financial Corp., Cedar Rapids, Iowa, each of which is a registered bank holding company, have 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 76 percent or more of the voting shares of First Trust and Savings Bank, Wheatland, Iowa.

Notice of receipt of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and all those received have been considered. The Board has considered the applications in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

On the basis of the record,[1] each of the applications is denied for the reasons set forth in the Board's statement of this date.

By order of the Board of Governors,[2] effective August 29, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-15237 Filed 9-7-72;8:49 am]

HELDENFELS BROS.

Nonbanking Activities

Heldenfels Brothers, Corpus Christi, Tex., has applied, pursuant to section 4(d) of the Bank Holding Company Act (12 U.S.C. 1843(d)), for an exemption from the provisions of the Act limiting the nonbanking activities of a bank holding company. Applicant controls the

[1] Dissenting statement filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Daane.

[3] Voting for this action: Vice Chairman Robertson and Governors Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Daane and Mitchell.

First National Bank of Rockport, Rockport, Tex.

Under section 4(d), the exemption may be granted "(1) to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, or (2) to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests, or (3) to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests."

Interested persons may express their views on this matter. The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any request for a hearing on this matter 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.

Any views or requests for a 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 October 2, 1972.

Board of Governors of the Federal Reserve System, August 31, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-15235 Filed 9-7-72;8:48 am]

MIDWESTERN FINANCIAL CORP.

Order Approving Acquisition of Crawshaw Mortgage and Investment Co.

Midwestern Financial Corp., Denver, Colo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Crawshaw Mortgage and Investment Co., Encino, Calif., a company that engages in the activity of mortgage banking. Such activity has been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a)(1)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors has been duly published (37 F.R. 9805). The time for filing comments and views has expired, and none has been timely received.

Applicant is a one-bank holding company through its ownership of the First National Bank in Golden (deposits of $39.8 million), Golden, Colo.[1] Applicant's major activity of mortgage banking is conducted through three subsidiaries: Kassler & Co., Kassler-West Mortgage Corp., and Kassler of California. As of June 30, 1971, Kassler & Co. serviced $701 million of permanent mortgages and ranked as the 18th largest mortgage banking firm in the Nation. Until March 1970, when it acquired Kassler of California, Applicant was not active in the California mortgage banking markets.

Crawshaw Mortgage and Investment Co. (Crawshaw) is a small mortgage company[2] operating out of one office in Encino, Calif. It engages in originating, brokering, and servicing FHA and VA loans on single-family residences and construction loans on commercial properties. In its most recent fiscal year, Crawshaw originated a total of $11.3 million in single family mortgages (primarily in Ventura County and the San Fernando Valley—including the northern part of Los Angeles County) and $8.8 million in commercial mortgages (throughout the Los Angeles area). During 1971, Crawshaw had 0.17 percent of the total mortgage recordings in Los Angeles County, while Kassler of California had about 0.51 percent. In view of the relatively large number of other mortgage lenders in the Los Angeles area, elimination of this small amount of local competition would have no significantly adverse effect on mortgage lending in the area.

Kassler of California does not presently compete in the Los Angeles area for commercial mortgage loans. Therefore, consummation of the proposal would not eliminate any existing competition in this product market. Since Applicant could commence commercial mortgage lending on its own, however, its removal as a potential competitor to Crawshaw for such loans could have a slightly adverse effect.

It is anticipated that the proposed acquisition would enable Kassler of California to compete more effectively with the numerous mortgage departments of large banks and savings and loan associations in the Los Angeles area. Present and potential mortgage customers could be served more conveniently out of Kassler of California's established offices in the area. On balance, the Board concludes that these public benefits outweigh any possible adverse effect on competition.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(a) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act, and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By order of the Board of Governors,[3] effective August 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-15236 Filed 9-7-72;8:48 am]

[1] Banking data as of Dec. 31, 1971.

[2] As of Sept. 30, 1971, Crawshaw's servicing portfolio was approximately $28 million.

WESTERN BANCSHARES, INC.

Order Denying Retention of Bank and Continuation of the Activities of a General Insurance Agency

Western Bancshares, Inc., Stockton, Kans., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)) to retain 89.5 percent of the voting shares of Rooks County State Bank, Woodston, Kans. (Bank).

At the same time, Applicant has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y to continue to engage in certain permissible insurance agency activities through the retention of Woodston Agency, Woodston, Kans. (Agency).

Notice of receipt of these applications was published in the FEDERAL REGISTER on February 16, 1972 (37 F.R. 3474), and the time for filing comments and views has expired. The Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c)(8) of the Act.

Bank ($1.2 million in deposits, as of December 31, 1971) is the only bank in Woodston, a community of 332 persons in central Kansas. Agency conducts a general insurance business from the premises of Bank. Approval of the proposal would have no effect upon either existing or potential competition.

On January 8, 1971, Applicant acquired Agency and a majority of the shares of Bank without the prior approval of the Board. On June 22, 1971, the Board, in order to avoid the imposition of unnecessary hardships, issued an order which provided that any company with acquired a bank between December 31, 1970, and that date, without securing prior Board approval because the company lacked knowledge of the Bank Holding Company Act Amendments of 1970, might file an application to retain the Bank and, thus, cure its violation of the Act. In this connection, however, the Board provided that the standards which were to be applied to such applications to retain would be the same as those normally applied to applications for prior approval. Applicant apparently acted without knowledge of the Act and the application has been considered on that basis.

[3] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

A principal of Applicant purchased certain of Bank's shares in late December 1970 and transferred them to Applicant on January 8, 1971. Between then and early March 1971, Applicant purchased the remainder of its present interest in Bank. A majority interest in Bank was purchased for about $522 a share, shares of certain employees of the Bank were purchased for $400 a share, and the shares of unrelated minority shareholders were purchased for $160 a share.

Applicant has stated that the premium paid to the principal shareholder reflects a payment for the related insurance agency. Such a premium would represent a payment for Agency of over 37 times the net income of Agency for 1971 and the Board concludes that Applicant has not justified the substantial disparity in prices paid for the shares. In its consideration of the public interest aspects of this application the Board finds, as it previously has in similar cases, that the failure to make an equivalent offer to all shareholders of Bank is an adverse circumstance weighing against approval of the application. (E.g. 1971 "Federal Reserve Bulletin" 415 and 688.)

An examination of considerations relating to the financial and managerial resources and future prospects of Bank and the convenience and needs of the communities to be served indicates that these considerations do not provide sufficient weight toward approval to outweigh the adverse circumstance of the disparate offers to shareholders.

The Board is aware that since the shares have already been purchased, denial of the application will not necessarily remedy the treatment of the minority shareholders. However, this results not from the Board's action but from Applicant's failure to obtain prior Board approval for its acquisition. Approval of Applicant's proposal would represent Board sanction of the inequitable treatment accorded to the minority and the public interest would not be served by such action.

On the basis of the record, the Board finds that approval of the section 3 application would not be in the public interest and it is accordingly denied.[1] As provided in the Board's order of June 22, 1971, Applicant shall take appropriate action to forthwith divest the interest unlawfully held.

By order of the Board of Governors,[2] effective August 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-15238 Filed 9-7-72;8:49 am]

WYOMING BANCORPORATION

Order Approving Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3) to acquire 100 percent of the voting shares (less directors' qualifying shares) of The Stockgrowers Bank of Evanston, Evanston, Wyo. ("Bank").

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in the State, controls nine banks with total deposits of $103.2 million, representing 11.1 percent of the total commercial bank deposits in Wyoming. (All banking data are as of December 31, 1971, adjusted to reflect holding company acquisitions approved by the Board through July 31, 1972.) Consummation of the proposal would not significantly increase applicant's share of total deposits in the State.

Bank, located in the southwestern corner of Wyoming about 75 miles northeast of Salt Lake City, Utah, is the smaller of two banks located in Evanston and holds total deposits of $8.6 million. Applicant's subsidiary located closest to bank is about 175 miles to the north and neither it nor any of applicant's other subsidiaries compete with bank to any significant extent. Moreover, the development of competition between bank and any of applicant's subsidiaries is considered unlikely in view of the intervening distances between the banks, Wyoming's restrictive branching laws, and the unlikelihood that applicant would enter the Evanston's area de novo. It appears, therefore, that consummation of the proposal would not eliminate any existing competition nor foreclose the development of any potential competition.

The financial and managerial resources and future prospects of applicant and its subsidiary banks are regarded as generally satisfactory and consistent with approval of the application. While applicant will incur acquisition debt as a result of consummation of the proposal, applicant proposes to retire the entire debt at an early date from the proceeds of a stock offering. In addition, applicant states that a portion of the proceeds from the stock offering will be used to augment the capital at its lead bank and at bank, thus strengthening the financial condition of each. Affiliation with applicant would provide bank with a source of experienced banking personnel. Thus, considerations relating to the banking factors lend weight toward approval of the application. Applicant proposes to assist bank in improving its services by establishing trust services and increasing bank's lending capabilities. These considerations relating to the convenience and needs lend some weight toward approval. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this Order or (b) later than 3 months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective August 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-15239 Filed 9-7-72;8:49 am]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. section 3221(c)) as amended by section 5(a) of Public Law 91-215, the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1972, shall be at the rate of seven and one-half cents.

Dated: August 31, 1972

By authority of the Board.

[SEAL] RICHARD F. BUTLER,
Secretary of the Board.

[FR Doc.72-15259 Filed 9-7-72;8:51 am]

SUBVERSIVE ACTIVITIES CONTROL BOARD

[Docket Nos. E72-170/E73-233]

ATTORNEY GENERAL'S LIST OF ORGANIZATIONS

Notice of Hearings

Attorney General of the United States, Petitioner, in regard:

Mario Morgantini Circle, Docket No. E72-170,
National Committee for Freedom of the Press, Docket No. E72-171,
National Negro Labor Council, Docket No. E72-172,
Nationalist Action League, Docket No. E72-173,
Negro Labor Victory Committee, Docket No. E72-174,
New Committee for Publications, Docket No. E72-175,
Nichibei Kogyo Kaisha (The Great Fujii Theatre), Docket No. E72-176,
North American Committee to Aid Spanish Democracy (AKA: Spanish Refugee Relief Campaign), Docket No. E72-177,

[1] Denial of Applicant's 3(a)(1) application requires denial of the attendant 4(c)(8) proposal.

[2] Voting for this action: Vice Chairman Robertson and Governors Brimmer, Sheehan, and Bucher. Voting against this action: Governors Mitchell and Daane. Absent and not voting: Chairman Burns.

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

North American Spanish Aid Committee, Docket No. E72–178,
North Philadelphia Forum, Docket No. E72–179,
Northwest Japanese Association, Docket No. E72–180,
Ohio School of Social Sciences, Docket No. E72–181,
Oklahoma Committee to Defend Political Prisoners, Docket No. E72–182,
Oklahoma League for Political Education, Docket No. E72–183,
Pacific Northwest Labor School, Seattle, Wash. (formerly known as the Seattle Labor School, Seattle, Wash.), Docket No. E72–184,
Palo Alto Peace Club, Docket No. E72–185,
Peace Information Center, Docket No. E72–186,
Peace Movement of Ethiopia (AKA: Ethiopian Peace Movement), Docket No. E72–187,
People's Drama, Inc., Docket No. E72–188,
People's Educational and Press Association of Texas, Docket No. E72–189,
People's Educational Association (incorporated under name Los Angeles Educational Association, Inc.), (AKA: People's Educational Center, People's University, People's School), Docket No. E72–190,
People's Institute of Applied Religion, Docket No. E72–191,
Peoples Programs (Seattle, Wash.), Docket No. E72–192.
People's Radio Foundation, Inc., Docket No. E72–193,
People's Rights Party, Docket No. E72–194,
Philadelphia Labor Committee for Negro Rights, Docket No. E72–195,
Philadelphia School of Social Science and Art, Docket No. E72–196,
Photo League (New York City), Docket No. E72–197,
Pittsburgh Arts Club, Docket No. E72–198,
Political Prisoners' Welfare Committee, Docket No. E72–199,
Polonia Society of the IWO, Docket No. E72–200,
Seattle Labor School, Seattle, Washington, Docket No. E72–201,
Progressive German-Americans AKA: Progressive German-Americans of Chicago, Docket No. E73–202,
Protestant War Veterans of the United States, Inc., Docket No. E73–203,
Provisional Committee of Citizens for Peace, Southwest Area, Docket No. E73–204,
Provisional Committee on Latin American Affairs, Docket No. E73–205,
Provisional Committee to Abolish Discrimination in the State of Maryland, Docket No. E73–206,
Puerto Rican Comite Pro Libertades Civiles (CLC), Docket No. E73–207,
Quad City Committee for Peace, Docket No. E73–208,
Queensbridge Tenants League, Docket No. E73–209,
Revolutionary Workers League, Docket No. E73–210,
Samuel Adams School, Boston, Mass., Docket No. E73–211,
Shinto Temples (limited to State Shinto), Docket No. E73–212,
Slavic Council of Southern California, Docket No. E73–213,
Slovak Workers Society, Docket No. E73–214,
Southern Negro Youth Congress, Docket No. E73–215,
Syracuse Women for Peace, Docket No. E73–216,
Tom Paine School of Social Science, Philadelphia, Pa., Docket No. E73–217,
Tom Paine School of Westchester, N.Y., Docket No. E73–218,
Union of American Croatians, Docket No. E73–219,
United American Spanish Aid Committee, Docket No. E73–220,
United Committee of Jewish Societies and Landsmanschaft Federations (AKA: Coordination Committee of Jewish Landsmanschaften and Fraternal Organizations), Docket No. E73–221,
United Defense Council of Southern California, Docket No. E73–222,
United Harlem Tenants and Consumers Organization, Docket No. E73–223,
Voice of Freedom Committee, Docket No. E73–224,
Walt Whitman School of Social Science, Newark, NJ AKA: New Jersey Labor School, Docket No. E73–225,
Washington Bookshop Association AKA: Washington Cooperative Bookshop, Docket No. E73–226,
Washington Committee to Defend the Bill of Rights, Docket No. E73–227,
Washington Commonwealth Federation, Docket No. E73–228,
Washington Pension Union, Docket No. E73–229,
Wisconsin Conference on Social Legislation, Docket No. E73–230.
Young Communist League, Docket No. E73–231.
Yugoslav-American Cooperative Home, Inc., Docket No. E73–232.
Yugoslav Seamen's Club, Inc., Docket No. E73–233.

On June 1, 1972, the Attorney General petitioned the Subversive Activities Control Board for a determination that the organizations numbered E72–170 through E72–201, inclusive, now on the Attorney General's list have ceased to exist. On July 17, 1972, the Attorney General petitioned the Subversive Activities Control Board for a determination that the organizations numbered E73–202 through E73–233, inclusive, now on the Attorney General's list have ceased to exist. The petitions are published in accordance with the rules of the Subversive Activities Control Board.

Notice is hereby given pursuant to Executive Order 11605 and the rules of the Subversive Activities Control Board issued in accordance therewith that hearings on the petitions will be held on the following dates at 11 a.m., in Room 500, 2120 L Street, Northwest, Washington, DC 20037:

September 26, 1972

Mario Morgantini Circle, Docket E72–170.
National Committee for Freedom of the Press, Docket No. E72–171.
National Negro Labor Council, Docket No. E72–172.
Nationalist Action League, Docket No. E72–173.
Negro Labor Victory Committee, Docket No. E72–174.
New Committee for Publications, Docket No. E72–175.
Nichibei Kogyo Kaisha (The Great Fujii Theatre), Docket No. E72–176.
North American Committee to Aid Spanish Democracy (AKA: Spanish Refugee Relief Campaign), Docket No. E72–177.
North American Spanish Aid Committee, Docket No. E72–178.
North Philadelphia Forum, Docket No. E72–179.
Northwest Japanese Association, Docket No. E72–180.
Ohio School of Social Sciences, Docket No. E72–181.
Oklahoma Committee to Defend Political Prisoners, Docket No. E72–182.
Oklahoma League for Political Education, Docket No. E72–183.
Pacific Northwest Labor School, Seattle, Wash. (formerly known as the Seattle Labor School, Seattle, Wash.), Docket No. E72–184.
Palo Alto Peace Club, Docket No. E72–185.

September 27, 1972

Peace Information Center, Docket No. E72–186.
Peace Movement of Ethiopia (AKA: Ethiopian Peace Movement), Docket No. E72–187.
People's Drama, Inc., Docket No. E72–188.
People's Educational and Press Association of Texas, Docket No. E72–189.
People's Educational Association (incorporated under name Los Angeles Educational Association, Inc.), (AKA: People's Educational Center, People's University, People's School), Docket No. E72–190.
People's Institute of Applied Religion, Docket No. E72–191.
Peoples Programs (Seattle, Wash.), Docket No. E72–192.
People's Radio Foundation, Inc., Docket No. E72–193.
People's Rights Party, Docket No. E72–194.
Philadelphia Labor Committee for Negro Rights, Docket No. E72–195.
Philadelphia School of Social Science and Art, Docket No. E72–196.
Photo League (New York City), Docket No. E72–197.
Pittsburgh Arts Club, Docket No. E72–198.
Political Prisoners' Welfare Committee, Docket No. E72–199.
Polonia Society of the IWO, Docket No. E72–200.
Seattle Labor School, Seattle, Wash., Docket No. E72–201.

September 28, 1972

Progressive German-Americans AKA: Progressive German-Americans of Chicago, Docket No. E73–202.
Protestant War Veterans of the United States, Inc., Docket No. E73–203.
Provisional Committee of Citizens for Peace, Southwest Area, Docket No. E73–204.
Provisional Committee on Latin American Affairs, Docket No. E73–205.
Provisional Committee to Abolish Discrimination in the State of Maryland, Docket No. E73–206.
Puerto Rican Comite Pro Libertades Civiles (CLC), Docket No. E73–207.
Quad City Committee for Peace, Docket No. E73–208.
Queensbridge Tenants League, Docket No. E73–209.
Revolutionary Workers League, Docket No. E73–210.
Samuel Adams School, Boston, Mass., Docket No. E73–211.
Shinto Temples (limited to State Shinto), Docket No. E73–212.
Slavic Council of Southern California, Docket No. E73–213.
Slovak Workers Society, Docket No. E73–214.
Southern Negro Youth Congress, Docket No. E73–215.
Syracuse Women for Peace, Docket No. E73–216.
Tom Paine School of Social Science, Philadelphia, Pa., Docket No. E73–217.

September 29, 1972

Tom Paine School of Westchester, New York, Docket No. E73–218.
Union of American Croatians, Docket No. E73–219.
United American Spanish Aid Committee, Docket No. E73–220.
United Committee of Jewish Societies and Landsmanschaft Federations (AKA: Coordination Committee of Jewish Landsmanschaften and Fraternal Organizations), Docket No. E73–221.

United Defense Council of Southern California, Docket No. E73–222.
United Harlem Tenants and Consumers Organization, Docket No. E73–223.
Voice of Freedom Committee, Docket No. E73–224.
Walt Whitman School of Social Science, Newark, N.J. AKA: New Jersey Labor School, Docket No. E73–225.
Washington Bookshop Association AKA: Washington Cooperative Bookshop, Docket No. E73–226.
Washington Committee to Defend the Bill of Rights, Docket No. E73–227.
Washington Commonwealth Federation, Docket No. E73–228.
Washington Pension Union, Docket No. E73–229.
Wisconsin Conference on Social Legislation, Docket No. E73–230.
Young Communist League, Docket No. E73–231.
Yugoslav-American Cooperative Home, Inc., Docket No. E73–232.
Yugoslav Seamen's Club, Inc., Docket No. E73–233.

JOHN W. MAHAN,
Chairman,
Subversive Activities Control Board.

[Docket No. E73 202]

In regard of Progressive German-Americans (AKA: Progressive German-Americans of Chicago); petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Progressive German-Americans has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1949. There is no record of any known activity since that date.

The last known address of the above named organization was 2610 North Halsted, Chicago, IL.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Progressive German-Americans has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Progressive German-Americans, at the following last known address: 2610 North Halsted, Chicago, IL.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 203]

In reference Protestant War Veterans of the United States, Inc.; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Protestant War Veterans of the United States, Inc., has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1949. There is no record of any known activity since that date.

The last known address of the above named organization was 119 West 59th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Protestant War Veterans of the United States, Inc., has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Protestant War Veterans of the United States, Inc., at the following last known address: 119 West 59th Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 204]

In regard Provisional Committee of Citizens for Peace, Southwest Area; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Provisional Committee of Citizens for Peace, Southwest Area has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about March 1953.

The last known address of the above named organization was c/o Walter Relis, 5872 Appian Way, Long Beach, CA.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Provisional Committee of Citizens for Peace, Southwest Area has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Provisional Committee of Citizens for Peace, Southwest Area, at the following last known address: c/o Walter Relis, 5872 Appian Way, Long Beach, CA.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 205]

In regard Provisional Committee on Latin American Affairs; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order No. 11605.

Pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Provisional Committee on Latin American Affairs has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1955. There is no record of any known activity since that date.

The last known address of the above-named organization was c/o Richard Greenspan, Room 636, 799 Broadway, New York, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Provisional Committee on Latin American Affairs has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Provisional Committee on Latin American Affairs, at the following last known address: c/o Richard Greenspan, Room 636, 799 Broadway, New York, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 206]

In regard Provisional Committee to Abolish Discrimination in the State of Maryland; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Provisional Committee to Abolish Discrimination in the State of Maryland has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1948. There is no record of any known activity since that date.

The last known address of the above-named organization was 326 West Franklin Street, Baltimore, MD.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Provisional Committee to Abolish Discrimination in the State of Maryland has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Provisional Committee to Abolish Discrimination in the State of Maryland, at the following last known address: 326 West Franklin Street, Baltimore, MD.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 207]

In regard Puerto Rican Comite Pro Libertades Civiles (CLC); petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Puerto Rican Comite Pro Libertades Civiles (CLC) has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about November 1954. There is no record of any known activity since that date.

The last known address of the above-named organization was Box 8883, Fernandez Juncos Station, Santurce, PR.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Puerto Rican Comite Pro Libertades Civiles (CLC) has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Puerto Rican Comite Pro Libertades Civiles (CLC), at the following last known address: Box 8883, Fernandez Juncos Station, Santurce, P.R.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 208]

In the matter to Quad City Committee for Peace; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Quad City Committee for Peace has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about December 1952. There is no record of any known activity since that date.

The last known address of the above-named organization was Odd Fellows Hall, 508½ Brady Street, Davenport, IA.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Quad City Committee for Peace has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Quad City Committee for Peace, at the following last known address: Odd Fellows Hall, 508½ Brady Street, Davenport, IA.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 209]

In regard Queensbridge Tenants League; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Queensbridge Tenants League has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1953. There is no record of any known activity since that date.

The last known address of the above-named organization was 41-02 12th Street, Long Island City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Queensbridge Tenants League has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Queensbridge Tenants League, at the following last known address: 41-02 12th Street, Long Island City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 210]

In regard Revolutionary Workers League; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Revolutionary Workers League has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about November 1950. There is no record of any known activity since that date.

The last known address of the above-named organization was 708 North Clark Street, Chicago, Ill.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Revolutionary Workers League has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Revolutionary Workers League, at the following last known address: 708 North Clark Street, Chicago, IL.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 211]

In regard Samuel Adams School, Boston, Mass.; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Samuel Adams School, Boston, Mass., has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about April 1948. There is no record of any known activity since that date.

The last known address of the above-named organization was 37 Province Street, Boston 8, MA.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Samuel Adams School, Boston, Mass., has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Samuel Adams School, Boston, Mass., at the following last known address: 37 Province Street, Boston 8, MA.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 212]

In regard Shinto Temples (limited to State Shinto); petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Shinto Temples has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about December 16, 1945. There is no record of any known activity since that date and there is no known address.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Shinto Temples has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 213]

In regard Slavic Council of Southern California; petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Slavic Council of Southern California has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about October 1957. There is no record of any known activity since that date.

The last known address of the above named organization was 446 South Yorbita Road, La Puente, Calif.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Slavic Council of Southern California has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972, to the Slavic Council of Southern California, at the following last known address: 446 South Yorbita Road, La Puente, Calif.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 214]

In regard Slovak Workers Society; petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Slovak Workers Society has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1954. There is no record of any known activity since that date.

The last known address of the above named organization was 80 Fifth Avenue, New York, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Slovak Workers Society has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972, to the Slovak Workers Society, at the following last known address: 80 Fifth Avenue, New York, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 215]

In regard Southern Negro Youth Congress; petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order No. 11605.

Pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Southern Negro Youth Congress has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1949. There is no record of any known activity since that date.

The last known address of the above-named organization was 1630 Fourth Avenue North, Birmingham, AL.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order No. 10450, as amended, that the Southern Negro Youth Congress has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least ten days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board, Room 500, 2120 L Street NW., Washington, DC 20037, on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Southern Negro Youth Congress, at the following last known address: 1630 Fourth Avenue North, Birmingham, AL.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 216]

In regard Syracuse Women for Peace; petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order No. 11605.

Pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Syracuse Women for Peace has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about January 1954. There is no record of any known activity since that date.

The last known address of the above named organization was c/o Patricia Geiger, 429 East Genesee Parkway, Syracuse, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order No. 10450, as amended, that the Syracuse Women for Peace has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any

hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board, Room 500, 2120 L Street NW., Washington, DC 20037, on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Syracuse Women for Peace, at the following last known address: c/o Patricia Geiger, 429 East Genesee Parkway, Syracuse, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 217]

In regard Tom Paine School of Social Science, Philadelphia, Pa.; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order No. 11605.

Pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Tom Paine School of Social Science, Philadelphia, Pa., has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1943. There is no record of any known activity since that date.

The last known address of the above-named organization was 810 Locust Street, Philadelphia, Pa.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order No. 10450, as amended, that the Tom Paine School of Social Science, Philadelphia, Pa., has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board, Room 500, 2120 L Street NW., Washington, DC 20037, on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Tom Paine School of Social Science, Philadelphia, Pa., at the following last known address: 810 Locust Street, Philadelphia, PA.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73218]

In regard Tom Paine School of Westchester, New York; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order No. 11605.

Pursuant to section 12(i) of Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Tom Paine School of Westchester, N.Y., has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about August 1947. There is no record of any known activity since that date.

The last known address of the above named organization was No. 2, Hamilton Avenue, New Rochelle, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order No. 10450, as amended, that the Tom Paine School of Westchester, N.Y., has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board, Room 500, 2120 L Street NW., Washington, DC 20037, on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Tom Paine School of Westchester, N.Y., at the following last known address: No. 2, Hamilton Avenue, New Rochelle, N.Y.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 219]

In regard Union of American Croatians; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Union of American Croatians has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about May 1949. There is no record of any known activity since that date.

The last known address of the above named organization was 434 Diamond Street, Pittsburgh, PA.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Union of American Croatians has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Union of American Croations, at the following last known address: 434 Diamond Street, Pittsburgh, PA.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 220]

In regard United American Spanish Aid Committee; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the United American Spanish Aid Committee has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1942. There is no record of any known activity since that date.

The last known address of the above-named organization was 200 Fifth Avenue, New York City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the United American Spanish Aid Committee has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the United American Spanish Aid Committee, at the following last known address: 200 Fifth Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 221]

In regard United Committee of Jewish Societies and Landsmanschaft Federations (AKA: Coordination Committee of Jewish Landsmanschaften and Fraternal Organizations); petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the United Committee of Jewish Societies and Landsmanschaft Federations has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about May 1953. There is no record of any known activity since that date.

The last known address of the above named organization was 225 West 34th Street, Suite 1007, New York, NY.

Therefore, the Government petitions this Board for a determination in accordance with

section 12(i) of Executive Order 10450, as amended, that the United Committee of Jewish Societies and Landsmanschaft Federations has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the United Committee of Jewish Societies and Landsmanschaft Federations, at the following last known address: 225 West 34th Street, Suite 1007, New York, NY 10001.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 222]

In regard United Defense Council of Southern California; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the United Defense Council of Southern California has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about January 1955. There is no record of any known activity since that date.

The last known address of the above named organization was c/o Mrs. Ruth Brent, Route No. 1, Box 154, Elsinore, CA.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the United Defense Council of Southern California has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972, to the United Defense Council of Southern California, at the following last known address: c/o Mrs. Ruth Brent, Route No. 1, Box 154, Elsinore, CA.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 223]

In regard United Harlem Tenants and Consumers Organization; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the United Harlem Tenants and Consumers Organization has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about July 1950. There is no record of any known activity since that date.

The last known address of the above-named organization was 44 West 125th Street, New York, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the United Harlem Tenants and Consumers Organization has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, 'ssued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972, to the United Harlem Tenants and Consumers Organization, at the following last known address: 44 West 125th Street, New York, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 224]

In regard Voice of Freedom Committee; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Voice of Freedom Committee has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1952. There is no record of any known activity since that date.

The last known address of the above named organization was 122 West 71st Street, New York, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Voice of Freedom Committee has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been issued this 17th day of July 1972, to the Voice of Freedom Committee, at the following last known address: 122 West 71st Street, New York, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 225]

In regard Walt Whitman School of Social Science, Newark, N.J. (AKA: New Jersey Labor School); petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Walt Whitman School of Social Science, Newark, N.J., has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1946. There is no record of any known activity since that date.

The last known address of the above named organization was 45 Clinton Street, Newark, NJ.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Walt Whitman School of Social Science, Newark, N.J., has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Walt Whitman School of Social Science, Newark, N.J., at the following last known address: 45 Clinton Street, Newark, NJ.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 226]

In regard Washington Bookshop Association (AKA: Washington Cooperative Bookshop); petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions

this Board for a determination that the Washington Bookshop Association, has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1950. There is no record of any known activity since that date.

The last known address of the above named organization was 916 Seventeenth Street NW., Washington, DC.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Washington Bookshop Association has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Washington Bookshop Association, at the following last known address: 916 17th Street NW., Washington, DC.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73-227]

In regard Washington Committee to Defend the Bill of Rights; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Washington Committee to Defend the Bill of Rights has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1954. There is no record of any known activity since that date.

The last known address of the above named organization was Post Office Box 711, Silver Spring, MD.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Washington Committee to Defend the Bill of Rights has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972, to the Washington Committee to Defend the Bill of Rights, at the following last known address: Post Office Box 711, Silver Spring, Md.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 228]

In regard Washington Commonwealth Federation; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order No. 11605.

Pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Washington Commonwealth Federation has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about March 1945. There is no record of any known activity since that date.

The last known address of the above named organization was 300 Mutual Life Building, Seattle, Wash.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Washington Commonwealth Federation has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street, NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Washington Commonwealth Federation, at the following last known address: 300 Mutual Life Building, Seattle, Wash.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 229]

In regard Washington Pension Union; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Washington Pension Union has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about August 1961. There is no record of any known activity since that date.

The last known address of the above-named organization was Room 610, Eitel Building, 1507 Second Avenue, Seattle, WA.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Washington Pension Union has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Washington Pension Union, at the following last known address: Room 610, Eitel Building, 1507 Second Avenue, Seattle, WA.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73-230]

In regard Wisconsin Conference on Social Legislation; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Wisconsin Conference on Social Legislation has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1947. There is no record of any known activity since that date.

The last known address of the above-named organization was 914 North Plankinton Avenue, Milwaukee, WI.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Wisconsin Conference on Social Legislation has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972 to the Wisconsin Conference on Social Legislation, at the following last known address: 914 North Plankinton Avenue, Milwaukee, WI.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73231]

In regard Young Communist League; petition for a determination pursuant to section

12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Young Communist League has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1943. There is no record of any known activity since that date.

The last known address of the above named organization was 150 Nassau Street, New York, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Young Communist League has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board, (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972, to the Young Communist League, at the following last known address: 150 Nassau Street, New York, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 232]

In regard Yugoslav-American Cooperative Home, Inc.; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605. Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Yugoslav-American Cooperative Home, Inc., has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1962. There is no record of any known activity since that date.

The last known address of the above named organization was 245 West 18th Street, New York City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Yugoslav-American Cooperative Home, Inc., has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972, to the Yugoslav-American Cooperative Home, Inc., at the following last known address: 245 West 18th Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[Docket No. E73 233]

In regard Yugoslav Seamen's Club, Inc.; petition for a determination pursuant to section 12(i) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(i) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Yugoslav Seamen's Club, Inc., has ceased to exist.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1962. There is no record of any known activity since that date.

The last known address of the above named organization was 245 West 18th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(i) of Executive Order 10450, as amended, that the Yugoslav Seamen's Club, Inc., has ceased to exist on or about the above date.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605, issued July 2, 1971, a copy of the attached petition has been mailed this 17th day of July 1972, to the Yugoslav Seamen's Club, Inc., at the following last known address: 245 West 18th Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney, Department of Justice.

[FR Doc.72-15250 Filed 9-7-72;8:50 am]

TARIFF COMMISSION

[AA1921-96]

PENTAERYTHRITOL FROM JAPAN

Determination of No Injury or Likelihood Thereof

SEPTEMBER 1, 1972.

On June 2, 1972, the Tariff Commission received advice from the Treasury Department that pentaerythritol, including nitration grade pentaerythritol, monopentaerythritol, technical pentaerythritol, dipentaerythritol, tripentaerythritol, and mixtures thereof from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). In accordance with the requirement of section 201(a) of that Act, the Tariff Commission instituted investigation No. AA1921-96 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on July 18, 1972.[1]

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission[2] has determined unanimously that an industry in the United States is not being and is not likely to be injured, or prevented from being established, by reason of the importation of pentaerythritol, including nitration grade pentaerythritol, monopentaerythritol, technical pentaerythritol, dipentaerythritol, tripentaerythritol, and mixtures thereof from Japan that is being, or is likely to be, sold at less than fair value (LFTV) within the meaning of the Antidumping Act of 1921, as amended.

STATEMENT OF REASONS[3]

The Antidumping Act, 1921, imposes two conditions which must be satisfied before an affirmative determination can be made. First, there must be injury or likelihood of injury to an industry in the United States, or an industry in the United States must be prevented from being established. Second, such injury (or likelihood of injury or prevention of establishment) must be "by reason of" the importation into the United States of the class or kind of foreign merchandise the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value.

In this case, the domestic industry consists of those facilities in the United States devoted to the production of pentaerythritol products. Currently, such products are manufactured by four companies. Representatives of only one domestic producer, Pan American Chemical Corp., of Toledo, Ohio (the originator of the antidumping complaint), testified at the Tariff Commission's public hearing; no other representative of the United States industry submitted formal statements or briefs, either in public or in confidence, asserting injury by reason of the LTFV imports.

INJURY AND THE REASONS THEREFOR

The complainant contends that the LTFV imports resulted in:

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[1] Notice of the Commission's investigation and hearing was published in the FEDERAL REGISTER of June 29, 1972 (37 F.R. 12876).

[2] Commissioners Young and Ablondi did not participate in the decision.

[3] Commissioner Leonard concurs in the result.

(1) Retardation in the growth of the U.S. industry.

(2) Prevention of Pan American from achieving its optimum level of operations.

(3) Price depression and market penetration.

Retardation of growth. During 1971, based on published information, domestic pentaerythritol capacity reached approximately 140 million pounds. At this level, domestic capacity was about 40 percent larger than total U.S. apparent consumption in any of the last 5 years. While the published data on plant capacity may be somewhat overstated, it is nonetheless clear that in 1971 U.S. productive capacity was considerably in excess of domestic demand. More striking, this excess capacity prevailed despite the closure of one U.S. plant in August 1970. Capacity was affected by another plant closure at the end of 1971, yet U.S. capacity in 1972 remains about one-fifth larger than it was in the last quarter of 1970. Both the closed plants were small, high cost, obsolescent facilities. The currently operating plants are all considerably larger; two are quite new. The plant closures, then, have resulted in a consolidation of domestic pentaerythritol production in the largest, newest, and most efficient facilities having a combined capacity more than adequate to supply U.S. needs. There is nothing to indicate that this consolidation would not have occurred if the LTFV sales of Japanese pentaerythritol had not been made. Hence, the plant closures cannot be said to have occurred "by reason of" the sales at less than fair value.

Pan American's inability to insure lower per unit costs. Pan American is the newest U.S. producer of pentaerythritol. Its plant was designed in the late 1960's, constructed in 1970, and began commercial production early in January 1971. It was a producing concern for only 6 weeks before filing its antidumping complaint with the Treasury Department. According to information presented at the Commission's hearing, Pan American's Toledo plant was shut down entirely during the last 6 months of 1971 so that problems with the manufacturing process could be corrected. This 6-month shutdown necessarily raised Pan American's per unit costs in its critical first years of operations. The technical problems which adversely affected Pan American were clearly unrelated to imports sold at less than fair value.

Price depression and market penetration. Throughout 1968, 1969, and most of 1970, the selling prices of domestic pentaerythritol were stable. The net delivered price for domestic technical grade pentaerythritol, calculated on a weighted average basis, was about 23.5 cents per pound in 1968, increased to 24 cents in 1969, and then declined slightly to about 23.2 cents in 1970. In effect, U.S. producers did not lower their price in 1968–69, or for most of 1970. When the price of domestic technical grade pentaerythritol finally broke, dropping generally from about 23 cents per pound in the fall of 1970 to 19 cents per pound in mid-1971, it broke concurrently with a net gain of 25 million pounds, or more than one-fifth, in U.S. productive capacity. Imports of technical grade pentaerythritol from Japan in 1971, moreover, were considerably smaller than they were in 1970, although for the first half of the year the monthly rate of importation was slightly ahead of the previous year. A comparison of the increase in U.S. capacity with imports from Japan reveals that the capacity increase in 1971 was nearly twice as large as the imports of pentaerythritol from Japan in 1970, and substantially more than twice as large as pentaerythritol imports from Japan in 1971.

Throughout 1969, 1970, and 1971 Japanese technical grade pentaerythritol undersold the domestic product by large margins—on the average, by 4.6 cents per pound in 1969, 3.7 cents in 1970, and 2.8 cents in 1971. The margins of LTFV sales, however, were so small compared to the margins of underselling as to be hardly a factor.

Other considerations. Other considerations support our conclusion that whatever injury the U.S. pentaerythritol industry may be suffering is not caused "by reason of" LTFV imports of pentaerythritol from Japan. At least two domestic producers were already showing financial losses when the selling price was still 24 cents per pound. On the other hand, another domestic firm increased production each year beginning in 1967 and thereby greatly increased its share of the U.S. market; this firm's profitability likewise was substantial. Finally, even with the apparent termination of pentaerythritol imports from Japan in early 1972, the domestic price has not shown a tendency to return to the published list price.

Likelihood of Injury

There is no evidence indicating any likelihood of injury. The Japanese yen has been revalued upward substantially since August 1971. Imports of Japanese pentaerythritol have not been recorded since February 1972, and the yen revaluation would seem to make underselling of the domestic product in the U.S. market unlikely.

Conclusion

Inasmuch as the alleged injury is almost entirely traceable to causes other than LTFV imports, and considering that Japanese pentaerythritol would have materially undersold the domestic product even in the absence of sales at LTFV, we conclude that if an industry in the United States is injured, the degree of causation between the injury and the LTFV imports of pentaerythritol from Japan is not sufficient to meet the "by reason of" test. At most, the injury resulting from LTFV sales is de minimis. Moreover, we conclude that there is no likelihood of injury to a domestic industry as contemplated in the Antidumping Act.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc.72-15249 Filed 9-7-72;8:51 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

WASHINGTON DEVELOPMENTAL PLAN

Submission of Plan and Availability for Public Comment

1. *Submission and Description of Plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health Plan for the State of Washington has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan identifies the Department of Labor and Industries as the State agency designated by the Governor of the State to administer the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1). It provides a description of personnel employed under a merit system; the coverage of employees of political subdivisions; procedures for the development and promulgation of standards, including standards for protection of employees against new and unforseen hazards; procedures for prompt restraint, or elimination of imminent danger situations.

The plan includes proposed draft legislation to be considered by the Washington Legislature during its 1973 session. Under the legislation the Department of Labor and Industries will have full authority to enforce and administer laws respecting safety and health of employees in all workplaces of the State with the exception of maritime, longshoring and Federal and State agencies under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The legislation further proposes to bring the plan into conformity with the requirements of 29 CFR Part 1902 in areas such as procedures for variances and the protection of employees from hazards.

The legislation is also intended to insure inspections in response to complaints; give employer and employee representatives opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements; a system of sanctions against employers of violations of standards and orders; employer right of review and employee participation in review proceedings.

Included in the plan is a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of Washington. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation by the State legislature.

2. *Location of Plan for Inspection and Copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room 305, Railway Labor Building, 400 First Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, Room 1813, Smith Tower Building, 506 Second Avenue, Seattle, WA 98104; Supervisor, Division of Safety, Department of Labor and Industries, 308 East Fourth Avenue, Post Office Box 207, Olympia, WA 98504. Copies of the plan may be obtained at the expense of the person(s) requesting the copies.

3. *Public participation.* Interested persons are hereby given 30 days from the day of this publication in which to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of State Programs, OSHA, Railway Labor Building, Room 305, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above addresses.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed within the 30 days specified above. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C., this 5th day of September 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-15274 Filed 9-7-72;8:53 am]

INTERSTATE COMMERCE COMMISSION

[Notice 70]

ASSIGNMENT OF HEARINGS

SEPTEMBER 5, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 61592 Sub 276, Jenkins Truck Line, Inc., now being assigned October 2, 1972 (1 week), at Chicago, Ill., in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 29120 Sub 139, All-American Transport, Inc., now assigned October 30, 1972, at Des Moines, Iowa, is canceled and reassigned to St. Louis, Mo. Same time.

MC 41432 Sub 117, East Texas Motor Freight Lines, Inc., now assigned October 16, 1972, will be held in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

MC 15859 Sub 7, The Hine Line, and MC 123639 Sub 144, J. B. Montgomery, Inc., now assigned September 18, 1972, at Washington, D.C., postponed to September 20, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-15280 Filed 9-7-72;8:54 am]

[Rev. S.O. 994; Rev. ICC Order No. 71, Amdt. 2-A]

RAILROADS OPERATING IN MARYLAND, DELAWARE, PENNSYLVANIA, AND NEW YORK

Rerouting or Diversion of Traffic

Upon further consideration of Revised ICC Order No. 71 (Railroads operating in the States of Maryland, Delaware, Pennsylvania, and New York) and good cause appearing therefor:

It is ordered, That:

Amendment No. 2 to Revised ICC Order No. 71 be, and it is hereby, vacated.

It is further ordered, That this amendment shall become effective at 11:59 p.m., September 1, 1972, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 1, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-15275 Filed 9-7-72;8:53 am]

[Rev. S.O. 994; Rev. ICC Order No. 71, Amdt. 3]

RAILROADS OPERATING IN MARYLAND, DELAWARE, PENNSYLVANIA, AND NEW YORK

Rerouting or Diversion of Traffic

Upon further consideration of Revised ICC Order No. 71 (Railroads operating in the States of Maryland, Delaware, Pennsylvania, and New York) and good cause appearing therefor:

It is ordered, That:

Revised ICC Order No. 71 be, and it is hereby, amended by adding the following paragraph (h) thereto:

(h) *Exception:* The provisions of Revised ICC Order No. 71 Under Revised Service Order No. 994 shall not apply to traffic originally routed via Penn Central-Wilkes Barre-Delaware and Hudson or Delaware and Hudson-Wilkes Barre-Penn Central, which traffic shall be rerouted under authority of Service Order No. 1110.

It is further ordered, That this amendment shall become effective at 12:01 a.m., September 11, 1972, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 1, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-15276 Filed 9-7-72;8:53 am]

[Ex Parte 241; Rule 19, 5th Rev. Exemption 12]

ATLANTIC AND WESTERN RAILWAY CO. ET AL.

Exemption From Mandatory Car Service Rules

It appearing, that the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the carowners; that return of these cars to the carowners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the carowners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 384, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, and bearing

reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlantic and Western Railway Co., Reporting marks: ATW.
The La Salle & Bureau County Railroad Co., Reporting marks: LSBC.
Louisville, New Albany & Corydon Railroad Co., Reporting marks: LNAC.
Manufacturers Railway Co., Reporting marks: MRS.
Richmond, Fredericksburg & Potomac Railroad Co., Reporting marks: RFP.
Vermont Railway, Inc., Reporting marks: Rut or VTR.
Wellsville, Addison & Galeton Railroad Corp., Reporting marks: WAG.

Effective September 1, 1972, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 1, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-15278 Filed 9-7-72;8:54 am]

[Ex Parte 241; Rule 19, Exemption 18]

ATCHISON, TOPEKA, AND SANTA FE RAILWAY CO. ET AL.

Exemption From Mandatory Car Service Rules

It appearing, that there are substantial movements of grain and grain products moving in plain, 40-foot, narrow-door boxcars between points on the following railroads:

The Atchison, Topeka and Santa Fe Railway Co.
Chicago and North Western Railway Co.
Chicago, Milwaukee, St. Paul and Pacific Railroad Co.
Chicago, Rock Island and Pacific Railroad Co.
Missouri Pacific Railroad Co.

and that unlimited exchange of such cars among these railroads will increase car utilization by reductions in switching and other movements of empty cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 384, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 ft. 6 in. or less and equipped with doors less than 9 feet wide, owned by any of the aforementioned railroads and located empty on such lines, may be loaded with grain or grain products, as defined herein, to stations located on any of the aforementioned railroads. When so loaded, such cars shall be exempt from the provisions of Car Service Rules 1 and 2.

The term grain and grain products shall comprise the commodities specifically named in lists 1, 2, 5, 6, 7, and 8, published in Western Trunk Lines Freight Tariff 330-U, ICC A-4797, issued by Fred Ofcky, supplements thereto or consecutive issues thereof.

Effective September 1, 1972.

Expires September 30, 1972.

Issued at Washington, D.C., August 31, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-15277 Filed 9-7-72;8:54 am]

[Notice 120]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 5, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) 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 31600 (Sub-No. 659 TA), filed August 15, 1972. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: David F. McAllister (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Compressed hydrogen gas,* in bulk, in Manifolded Cylinder Trailers, from East Hartford, Conn., to Utica, Apalachin, and Beacon, N.Y., for 150 days. Supporting shipper: Union Carbide Corp., Linde Division, Eastern Region Production Office, Pleasant Valley Avenue and Route 38, Moorestown, N.J. 08057. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

No. MC 35835 (Sub-No. 28 TA), filed August 14, 1972. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Avenue SE., Independence, IA 50644. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lacrose and lactose products,* from Independence, Iowa, to Sturgis, Mich., and Columbus, Ohio, for 180 days. Supporting shipper: Wapsie Valley Creamery, Post Office Box 391, Independence, IA 50644. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 47149 (Sub-No. 14 TA), filed August 17, 1972. Applicant: C. D. AMBROSIA TRUCKING CO., Rural Delivery No. 1, Edinburg, Pa. 16116 (Mailing Address: Rural Delivery No. 2, Lowellville, Ohio 44436). Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Coal,* in dump vehicles, from the facilities of the Ambrosia Coal & Construction Co., in Allegheny County, Pa., to points in Cuyahoga, Mahoning, and Trumbull Counties, Ohio; and (2) *coal,* in dump vehicles, from the facilities of the Ambrosia Coal & Construction Co., in Lawrence County, Pa., to points in Cuyahoga County, Ohio, for 180 days. Supporting shipper: The Ambrosia Coal & Construction Co., Rural Delivery No. 1, Edinburg, Pa. 16116. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 63417 (Sub-No. 44 TA), filed August 18, 1972. Applicant: BLUE RIDGE TRANSFER COMPANY INCORPORATED, 1814 Hollins Road NE., Post Office Box 2888, Roanoke, VA 24001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts,* from Flora, Miss., to Sumter, S.C., for 180 days. NOTE: Applicant proposes to tack authority with existing authority. Supporting shipper: Consolidated Furniture Industries, Lenoir, N.C. 28645. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 107002 (Sub-No. 422 TA), filed August 16, 1972. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 W., Jackson, MS 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common*

[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.

carrier, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Mobile, Ala., to Flint, Mich., for 180 days. Supporting shipper: Chevron Oil Co., Post Office Box 1446, Louisville, KY 40201. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 108207 (Sub-No. 357 TA), filed August 17, 1972. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street 75207, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from Phoenix, Ariz., to points in Illinois, Ohio, Minnesota, Michigan, Indiana, Missouri, Oklahoma, Kansas, Iowa, Nebraska, and Wisconsin, for 180 days. Supporting shipper: Cerreta Candy Co., 2866 Grand Avenue, Phoenix, AZ 85017. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 111940 (Sub-No. 57 TA), filed August 16, 1972. Applicant: SMITH'S TRUCK LINES, Post Office Box 88, Rural Delivery No. 2, Muncy, PA 17756. Applicant's representative: John M. Musselman, 400 North Third Street, Harrisburg, PA. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, grain, and feed ingredients*, from rail sidings at or near Williamsport, Pa., to Troy, Pa., for 180 days. Supporting shipper: Troy Agway Coop., Inc., Troy, Pa. 16947. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 113024 (Sub-No. 122 TA), filed August 17, 1972. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Du Pont Highway, Smyrna, DE 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial and garden hose, and materials and supplies* used in the manufacture thereof (except commodities requiring special equipment) for the account of Electric Hose & Rubber Co., Wilmington, Del., between Box Butte and Red Willow Counties, Nebr., on the one hand, and, on the other, Wilmington, Del., Cook and Lake Counties, Ill., Fayette County, Ind., Cockeysville, Md., Wayne County, Mich., Essex County, N.J., Franklin and Licking Counties, Ohio; Anderson and Tarrant Counties, Tex., and from Cook and Lake Counties, Ill., to Wilmington, Del., for 180 days. Supporting shipper: Fred H. Evick, Traffic Manager, Electric Hose & Rubber Company, Post Office Box 910, Wilmington, DE 19899. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 116273 (Sub-No. 156 TA), filed August 18, 1972. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Applicant's representative: William Lavery (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid ethylene*, in shipper-owned trailers, from Clinton, Iowa, to Calvert City, Ky., Hastings, W. Va., Morris, Ill., and Seneca, Ill., for 180 days. Supporting shipper: Northern Petrochemical Co., 2350 East Devon Avenue, Des Plaines, IL 60018. Send protests to: Transportation Specialist Richard Shullaw, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Everett McKinley Dirksen Building, Chicago, IL 60604.

No. MC 116474 (Sub-No. 23 TA), filed August 16, 1972. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Thermal processed and pressure treated poles and piling*, from points in Lane County, Oreg., to points in Nevada and in El Dorado County, Calif., under contract with L. D. McFarland Co., for 180 days. Supporting shipper: L. D. McFarland Co., Post Office Box 2667, Eugene, OR 97402. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 123255 (Sub-No. 25 TA), filed August 17, 1972. Applicant: B & L MOTOR FREIGHT, INC., 140 East Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Bensenville, Ill., to points in the Lower Peninsula of Michigan, for 180 days. Supporting shipper: Miller Brewing Co., Milwaukee, Wis. 53201. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 125000 (Sub-No. 7 TA), filed August 17, 1972. Applicant: LEON LEDBETTER, Post Office Box 227, Vega, TX 79092. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hot mix material*, from points in Moore and Ochiltree Counties, Tex., to points in Meade County, Kans., and Beaver County, Okla., for 180 days. Supporting shipper: H. Delbert Lewis, Jr., president, Lewis Construction Co., 124 Chelsea, Dumas, Tex. 79029. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, TX 79101.

No. MC 136161 (Sub-No. 3 TA), filed August 16, 1972. Applicant: ORBIT TRANSPORT, INC., Spring Valley, Ill. 61362, Mailing: Post Office Box 163, Office: 500 Canal Street, La Salle, IL 61301. Applicant's representative: Edward Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail grocery houses, from the facilities of United Facilities, Inc., at Galesburg, Ill., to points in Iowa, Minnesota, Missouri, Wisconsin, and Illinois, for 180 days. Supporting shipper: United Facilities, Inc., Post Office Box 539, Peoria, IL 61601. Send protests to: District Supervisor Richard K. Shullaw, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 136842 TA (amendment) filed June 22, 1972, published in the FEDERAL REGISTER issue of July 15, 1972, amended and republished in part as amended this issue. Applicant: MIDNIGHT EXPRESS, INC., Box 496, Dana, IL 61321. Applicant's representative: Robert Lawley, 300 Reisch Building, Springfield, Ill. 62701.

NOTE: The purpose of this partial republication is to show in part (1) above for the account of Galesburg Brick Co., Galesburg, Ill., in lieu of for the account of Streator Brick Systems, Inc., Streator, Ill., shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 136961 (Sub-No. 1 TA), filed August 15, 1972. Applicant: LAKE CRYSTAL TRANSPORTATION COMPANY, Post Office Box 1149, Ogden, UT 84402. Applicant's representative: William S. Richards, 900 Walker Bank Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from points in Utah, to points in Colorado, Idaho, Montana, and Wyoming, and *return of rejected shipments*, for 180 days. Supporting shipper: Lake Crystal Salt Co., Post Office Box 1149, Ogden, UT 84402. Send protests to: District Supervisor Lyle D. Helfer, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-15281 Filed 9-7-72;8:54 am]

[Notice 120]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 5, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under sec-

tion 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-FC-73933. By application filed August 31, 1972, MID-CITY FREIGHT LINES, INC., Route 1, Sibley, Mo., seeks temporary authority to lease the operating rights of CLARK TRUCK LINE, INC., Atherton, Mo., under section 210a (b). The transfer to MID-CITY FREIGHT LINES, INC., of the operating rights of CLARK TRUCK LINE, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-15279 Filed 9-7-72;8:54 am]

[Ex Parte 288; Special Permission 73-940]

PROTECTIVE SERVICE CHARGES, 1972

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 5th day of September 1972.

Upon consideration of the petition filed in this proceeding, and the accompanying report on the petition, and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted into and concerning the adequacy of protective service charges (ice, heater, and mechanical), as well as certain line-haul rates and charges which include provisions for protective service, of all common carriers by railroad in the United States, the said investigation to include the interim increases here proposed and the referred-to increases to be proposed subsequently on a selective basis.

It is further ordered, That all such common carriers be, and they are hereby, made respondents to this proceeding.

It is further ordered, That the petitions be, and they are hereby, required to serve a copy of the petition and accompanying verified statements filed herein upon all parties of record in Ex Parte No. 281, "Increased Freight Rates and Charges, 1972," 340 I.C.C. 358, within 15 days from the date of service of this order and accompanying report, and they be, and, they are hereby, required to so notify the Commission.

It is further ordered, That, in publishing the proposed interim increases in accordance with the special permission authority hereinafter granted, the schedules shall not become effective upon not less than 30 days' notice, but not earlier than November 6, 1972, and shall include an appropriate refund provision or provisions.

It is further ordered, That statements filed with the instant petition will be made part of the formal record; that verified statements of fact and of argument in opposition to the proposal will also be made part of the formal record; and unverified statements to be received as protests for consideration only in connection with the issue of suspension, shall be filed not later than October 20, 1972. An original and 24 copies of such verified statements and protests shall be filed with the Commission and 25 copies thereof shall be served on Mr. Harry L. De Lung, Jr., attorney for petitioners, Room 527, American Railroads Building, 1920 L Street NW., Washington, DC 20036. and the statements and protests filed with the Commission shall contain a certification that such service has been made. The nature of further proceedings herein, if any, will thereafter be determined.

And it is further ordered, That the petition in all other respects be, and it is hereby, denied.

Upon consideration of a petition dated August 25, 1972, filed by Harry L. De Lung, Jr., and other attorneys for and on behalf of rail carriers listed therein, and on behalf of certain water and motor carriers having joint rates with said railroads listed therein, insofar as said petition requests authority.

(1) To depart from the Commission's tariff-publishing rules to the extent necessary to enable such carriers and/or their agents to publish increased protective service charges to become effective not earlier than October 7, 1972, upon not less than thirty (30) days' notice, as follows:

(a) By publication and filing increases in a master tariff, in the form of conversion tables and a surcharge or surcharges,

(b) By publication and filing of connecting link supplements to one or more tariffs connecting such tariff or tariffs with the master tariffs,

(c) By publication of provisions in tariffs or supplements subjecting the rates and charges therein to the provisions of the master tariff.

(2) By publication and filing of tariffs or supplements of specific increased rates and charges, and such master tariff to include, and such specific increases to attach a provision for the refund of the difference between the increase published and that which may subsequently be approved or prescribed by the Commission, or the refund of the entire increase should no increase be approved, subject to accrued interest at four (4) percent.

For good cause shown: *It is ordered,*

1. All railroads, and water and motor carriers to the extent they maintain joint rates with said railroads, and their tariff publishing agents be, and they are hereby, authorized to depart from the Commission's tariff-publishing rules, to the extent necessary, when publishing and filing tariffs and supplements to tariffs to become effective with notice to the Commission and to the public of not less than thirty (30) days, but not earlier than November 6, 1972, providing for application of increases in Protective Service Charges, with identified exceptions, but which do not result in an increase in charges greater than those specified in the petition, as set forth in the said petition, in the following manner, effective earliest possible date:

(a) By publication and filing of a master tariff, including supplements thereto and reissues thereof, and, by publication of provisions in tariffs or reissues or amendments thereto which provide specific increases not subject to the said master tariff effective concurrently with the master tariff and upon the same notice, which publications shall include, and maintain in effect a provision reading as follows:

> In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increases resulting from the application of this tariff and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with four percent interest. In the event an increase resulting from the application of this tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with four percent interest.

such publications to contain all general exceptions.

(b) By publication and filing of a connecting link supplement to each tariff connecting such tariffs with the master tariff naming the increased provisions. Connecting-link supplements may be blanket supplements (a common supplement issued to two or more tariffs), provided each and every copy officially filed with the Commission is individually hand-marked in the appropriate spaces as to the supplement number and the ICC number of the tariff it supplements.

(c) By publication of provisions in tariffs or amendments thereto subjecting rates and charges therein to the provisions of the master tariff.

2. (a) Master tariffs and supplements thereto, other tariffs and amendments thereto which employ the short-form methods authorized herein shall bear a notation reading substantially as follows:

> Form of publication authorized: ICC Permission No. 73-940.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges hereunder shall bear a notation reading:

> Publication made in accordance with ICC Permission No. 73-940.

3. The master tariff, and any reissues thereof under this authority, shall bear an expiration date of May 6, 1973, which shall be maintained without change unless otherwise authorized by this Commission.

4. Connecting-link supplements and any supplements providing increases by surcharge shall contain no other matter and be exempt from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible. This and all other relief from the Commission's tariff-publishing rules authorized herein shall expire with May 6, 1973.

5. Outstanding orders of the Commission are modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff publications filed shall be subject to protest and possible suspension or rejection.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-15366 Filed 9-7-72;8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

3 CFR

Page

EXECUTIVE ORDERS:
- 11533 (see EO 11683) ... 17813
- 11554 (amended by EO 11684) ... 17959
- 11677 (revoked by EO 11683) ... 17813
- 11683 ... 17813
- 11684 ... 17959

5 CFR

- 213 ... 17815, 17816, 18071

6 CFR

- 200 ... 18081
- 300 ... 18082
- Rulings ... 18029, 18179, 18180

7 CFR

- 55 ... 17816
- 61 ... 17817
- 301 ... 17961
- 908 ... 17817, 17961, 18071
- 910 ... 17961
- 918 ... 17818
- 926 ... 18072
- 931 ... 18181
- 932 ... 17818
- 981 ... 18072
- 991 ... 17962
- 1446 ... 18029
- 1475 ... 18181

PROPOSED RULES:
- 52 ... 17851, 18083
- 722 ... 18039
- 726 ... 18218
- 966 ... 18039
- 1040 ... 17852
- 1043 ... 17852
- 1065 ... 18203
- 1106 ... 18216
- 1133 ... 17855
- 1701 ... 18222

9 CFR

- 76 ... 17819, 18182
- 77 ... 17962
- 82 ... 18072

10 CFR

- 115 ... 18073

12 CFR

- 500 ... 17962
- 526 ... 17820
- 531 ... 18030
- 543 ... 17821
- 584 ... 18073
- 589 ... 18074
- 710 ... 17821

PROPOSED RULES:
- 741 ... 18202

13 CFR

- 305 ... 17963

PROPOSED RULES:
- 115 ... 17980

14 CFR

Page

- 39 ... 17823, 17963, 18030
- 71 ... 17824, 18031, 18182, 18183
- 73 ... 18184
- 75 ... 18074, 18184
- 95 ... 17824
- 97 ... 18074

PROPOSED RULES:
- 39 ... 17856
- 71 ... 17857, 17979
- 75 ... 17857
- 129 ... 17979

15 CFR

Page

- 390 ... 17977
- 1000 ... 18035

16 CFR

- 13 ... 18184, 18185, 18187–18191

18 CFR

- 1 ... 18192
- 2 ... 18192
- 3 ... 18192
- 141 ... 18032
- 260 ... 18032

PROPOSED RULES:
- 101 ... 18041

19 CFR

- 12 ... 18032
- 16 ... 18193
- 25 ... 18032

20 CFR

- 722 ... 18076

PROPOSED RULES:
- 401 ... 17978
- 410 ... 18002
- 422 ... 17978
- 715 ... 18152
- 717 ... 18084, 18169
- 718 ... 18152
- 720 ... 18152
- 725 ... 18152

21 CFR

- 19 ... 18193
- 37 ... 18193
- 121 ... 18195
- 149a ... 17825
- 149b ... 17826

22 CFR

- 201 ... 18192

24 CFR

- 201 ... 18032

PROPOSED RULES:
- 203 ... 17855

25 CFR

- 232 ... 18195

26 CFR

Page

- 1 ... 17826

PROPOSED RULES:
- 1 ... 17845

29 CFR

- 1910 ... 18196

32 CFR

- 1602 ... 17963
- 1604 ... 17967
- 1605 ... 17968
- 1606 ... 17968
- 1607 ... 17968
- 1608 ... 17968
- 1609 ... 17968
- 1610 ... 17968
- 1611 ... 17964
- 1617 ... 17964
- 1621 ... 17964
- 1622 ... 17964
- 1623 ... 17965
- 1624 ... 17965
- 1625 ... 17965
- 1626 ... 17965
- 1628 ... 17966
- 1630 ... 17966
- 1631 ... 17966
- 1632 ... 17966
- 1641 ... 17966

33 CFR

- 117 ... 18076

PROPOSED RULES:
- 117 ... 18084

39 CFR

- 131 ... 17827
- 132 ... 17827
- 133 ... 17828
- 134 ... 17828
- 135 ... 17829
- 136 ... 17829
- 137 ... 17829
- 141 ... 17829
- 144 ... 17830
- 158 ... 17830
- 159 ... 17830
- 166 ... 17830

40 CFR

- 85 ... 18262

PROPOSED RULES:
- 52 ... 18041
- 180 ... 18084

41 CFR

- 3–7 ... 18192
- 5A–1 ... 17831
- 5A–2 ... 17831
- 5A–72 ... 17831
- 5A–73 ... 17832
- 5A–76 ... 17832

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*
17807–17951	Sept. 1
17953–18021	2
18023–18063	6
18065–18171	7
18173–18274	8

federal register

FRIDAY, SEPTEMBER 8, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 175

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND ENGINES

Heavy Duty Engines

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Heavy-Duty Engines

Emission standards and test procedures to be applicable to heavy duty gasoline and diesel motor vehicle engines beginning with the 1973 model year were proposed by the Environmental Protection Agency (EPA) on October 5, 1971 (36 F.R. 19400). On February 11, 1972, the Agency announced that, on the basis of comments received from domestic and foreign motor vehicle engine manufacturers and other interested parties, it had determined that there was inadequate leadtime available to apply the proposed standards and test procedures to the 1973 model year. The comments received also expressed objection to EPA adoption of a heavy duty engine test procedure significantly different from the procedure used by manufacturers for certification of motor vehicle engines to meet California standards because of the substantial costs involved in separate certifications. The California heavy-duty engine standards are in effect beginning with 1973, under the terms of a waiver of Federal preemption issued under section 209 of the Clean Air Act by the Administrator of EPA (36 F.R. 8172).

After evaluating the comments and all other information available to him, the Administrator has decided to promulgate the emission standards and test procedures set forth below applicable to heavy duty gasoline and diesel motor vehicle engines beginning with the 1974 model year. The standards are identical to those in effect in California beginning in 1973, except that the smoke emission regulations proposed in the October 5, 1971, publication have also been adopted. The test procedures being promulgated are essentially the 1973 California procedures, except for the following differences:

DIFFERENCES BETWEEN 1973/1974 CALIFORNIA AND RECOMMENDED FEDERAL 1974 REGULATIONS

Item	Federal requirement	California requirement
Diesel smoke standards	20 percent opacity during acceleration, 15 percent during lugging, 50 percent at peaks.	None.
Durability testing for gaseous emissions from diesels.	1,000 hrs	Not specified.
Fuel requirements for emission data gasoline engines.	High octane leaded fuel	Low octane (91 max.).
Engine selection	Maximum of 4 emission data, 2 durability data engines.	More general than Federal specifications.
Fuel evaporative standard—heavy duty gasoline vehicles.	None [1]	2 gms/test.
Dynamometer time accumulation for emission data diesel engines.	125 hrs	50 hrs.
Diesel fuel for emission data engines	Minimum 27 percent aromatics	No aromatic requirement.
Inlet air restrictions for emission data diesel engines.	Close to maximum seen in service	Less stringent.
Specification of load	Allows substitution of alternate loading when prescribed loading can not be attained.	Does not allow substitutions.
Number of dynamometer runs, separated by waiting period, for complete emission test for heavy duty diesel engines.	1 test run, with no waiting period [2]	2 test runs, separated by 8 hr. waiting period.

[1] Not feasible for Federal regulations since Federal certification is for the heavy duty engine whereas California certifies the heavy duty vehicle.
[2] EPA has no data available to indicate 2 test runs are necessary.

In the judgment of the Administrator, the emissions of hydrocarbons, carbon monoxide, nitrogen oxides, and smoke from heavy duty gasoline and diesel motor vehicle engines contribute to air pollution which endangers the public health and welfare. The regulations set forth below are intended to provide for significant reductions of emissions of these pollutants from levels currently allowed. The regulations on emissions of hydrocarbons, carbon monoxide, and nitrogen oxides from diesel engines would, in addition, provide a basis for judging low-emission vehicles under section 212 of the Clean Air Act.

It is also the Administrator's judgment that the regulations prescribed will provide approximately the same benefit in terms of air quality as those proposed October 5, 1971, since the regulations are of approximately the same stringency.

The Administrator has determined, after considering the cost of compliance, that the 1974 applicability date for these regulations provides reasonable opportunity for the development and application of the requisite technology. This determination is based upon the following factors:

a. Twenty-three of the 28 gasoline engines certified by EPA for the 1972 model year meet the 1973 California hydrocarbon standard; of the same 28 engines, 23 engines also meet the carbon monoxide standard, although these 23 are not the same 23 which meet the hydrocarbon standard;

b. All heavy-duty engines intended to be sold in California in 1973 must meet the California hydrocarbon, nitrogen oxides, and carbon monoxide standards, and certification tests run to date demonstrate successful development of control technology for compliance; and

c. Approximately 75 percent to 85 percent of the heavy-duty diesel engines certified for the 1972 model year already comply with the smoke emission standards prescribed below.

The Administrator has further determined that the cost to manufacturers of compliance with these regulations beginning with the 1974 model year will be minimized because the manufacturers will be able to obtain certification for California and the rest of the Nation by following the same test procedure, since only one fleet of test engines will be required.

In response to the October 5, 1971, proposal, engine manufacturers commented that there is insufficient data available to determine whether or not the humidity correction factor is correct. EPA agrees with this judgment. Data is currently being developed which will provide a basis for determining whether a change in the factor is necessary. If EPA determines that a change is necessary, it will be prescribed as soon as possible during 1972 and will be applicable beginning with the 1974 model year. Accordingly, the factor set forth in these regulations may be considered an interim measure.

Changes in the test procedures for smoke, which were not proposed, are as follows:

a. In response to manufacturers' comments on the proposal, the dynamometer operation cycle acceleration mode is clarified by specifying allowable deviation from a linear acceleration rate;

b. In response to manufacturers' comments on the proposal, the maximum exhaust system length is extended, which will facilitate testing without affecting test results;

c. In the smoke measurement system, the limits of the distance from optical centerline to exhaust pipe outlet have been narrowed to reflect the Agency's acknowledgment that no manufacturer has been testing at the current maximum distance;

d. An additional calibrated neutral density filter is prescribed to check instruments in order to accommodate the smoke standard being adopted; and

e. In the provision on test runs, the Agency determined that it is necessary to specify the limits of a valid test as regards drift.

Amendments to the heavy duty engine regulations applicable beginning with the 1973 model year are also set forth below. They consist of the following items:

a. Expansion of the definition of "useful life" to include 1,500 hours of operation (along with 5 years or 50,000 miles) for gasoline engines and 3,000 hours of operation (along with 5 years or 100,000 miles) for diesel engines. This addition is based on the Agency's determination that certain gasoline engines accumulate thousands of hours of engine operation before reaching either 5 years or 50,000 miles and that certain diesel engines accumulate thousands of hours of engine operation before reaching 5 years or 100,000 miles. Therefore, the only way to provide a reasonable period for the "useful life" warranties imposed by section

207 of the Clean Air Act is to include a provision for hours of operation in the useful definition.

b. A special test procedure for heavy duty military diesel engines which is designed to accommodate the unique design parameters and operating requirements of these engines.

A. Part 85 of Chapter I, Title 40 of the Code of Federal Regulations as applicable to 1973 and later model year heavy-duty engines is amended as follows, effective 30 days after publication in the FEDERAL REGISTER.

1. In § 85.1, paragraphs (a)(33) (ii) and (ii) are revised and a new subparagraph (37) is added, as follows:

§ 85.1 Definitions.

(a) * * *

(33) * * *

(ii) In the case of gasoline fueled, heavy-duty engines, a period of use of 5 years or 50,000 miles of vehicle use or 1,500 hours of engine operation (or an equivalent period of 1,500 hours of dynamometer operation), whichever first occurs;

(iii) In the case of heavy-duty diesel engines, a period of use of 5 years or 100,000 miles of vehicle operation or 3,000 hours of engine operation (or an equivalent period of 1,000 hours of dynamometer operation), whichever first occurs.

(34) [Reserved]

(35) [Reserved]

(36) [Reserved]

(37) "Military engine" means any engine manufactured solely for the Department of Defense to meet military specifications.

2. In § 85.130, paragraphs (b)(2) and (c) are revised as follows:

§ 85.130 Test engines.

* * * * *

(b) * * *

(2) Engines of each engine family will be divided into groups based upon exhaust emission control system. Two engines of each engine-system combination shall be run for smoke emission data as prescribed in § 85.132(a). Within each combination, the engines that feature the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will be selected. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated torque will be selected. If there are military engines with higher fuel rates than other engines in the same engine-system combination, then two military engines with the highest fuel feed per stroke shall be also selected.

(c) Durability data engines:

(1) One engine from each engine-system combination shall be tested as prescribed in § 85.132(b). Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will be selected for durability testing. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will be selected for durability testing. If an engine-system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will be selected for durability testing.

(2) A manufacturer may select to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

* * * * *

B. Part 85 of Chapter I, Title 40 of the Code of Federal Regulations as applicable to 1974 and later model year heavy-duty engines is amended as follows, effective 30 days after publication in the FEDERAL REGISTER:

1. In the Table of Contents, Subpart E is revised, the heading of Subpart J is revised, and Subpart K is added as follows:

Subpart E—Exhaust Emissions (Heavy-Duty Diesel Engines)

Sec.
85.40 Applicability.
85.41 Standards for exhaust smoke.
85.42 Standards for exhaust gaseous emissions.
85.43 Test procedures.

AUTHORITY: The provisions of this Subpart E issued under sec. 202 of the Clean Air Act, as amended, 42 U.S.C. 1857f–1 et seq.

* * * * *

Subpart J—Test Procedures for Engine Exhaust Smoke Emissions (Heavy-Duty Diesel Engines)

* * * * *

Subpart K—Test Procedures for Engine Exhaust Gaseous Emissions (Heavy-Duty Diesel Engines)

Sec.
85.140 Introduction.
85.141 Diesel fuel specifications.
85.142 Dynamometer procedure.
85.143 Dynamometer and engine equipment.
85.144 Sampling and analytical methods.
85.145 Information to be recorded.
85.146 Calibration and instrument check.
85.147 Test run.
85.148 Chart reading.
85.149 Calculations.
85.150 Test engines.
85.151 Service accumulation; emission measurements; maintenance.
85.152 Compliance with emission standards.

AUTHORITY: The provisions of this Subpart K issued under sec. 202 of the Clean Air Act, as amended, 42 U.S.C. 1857f–1 et seq.

2. In § 85.1, paragraphs (a) (29) and (33) are revised and new paragraphs (a) (34), (35), (36), and (37) are added, as follows:

§ 85.1 Definitions.

(a) * * *

(29) Zero (0) hours means that point after normal assembly line operations and adjustments and before one additional operating hour has been accumulated.

* * * * *

(33) "Useful life" means:

(i) In the case of light-duty vehicles, a period of use of 5 years of 50,000 miles, whichever first occurs;

(ii) In the case of gasoline fueled heavy-duty engines, a period of use of 5 years or 50,000 miles of vehicle use or 1,500 hours of engine operation (or an equivalent period of 1,500 hours of dynamometer operation), whichever first occurs;

(iii) In the case of heavy-duty diesel engines, a period of use of 5 years or 100,000 miles of vehicle operation or 3,000 hours of engine operation (or an equivalent period of 1,000 hours of dynamometer operation), whichever first occurs.

(34) "Peak torque speed" means the speed at which an engine develops maximum torque.

(35) "Percent load" means the fraction of the maximum available torque at an engine speed.

(36) "Intermediate speed" means the peak torque speed or 60 percent of rated speed, whichever is higher.

(37) "Military engine" means any engine manufactured solely for the Department of Defense to meet military specifications.

3. In § 85.2, eight new abbreviations are added as follows:

§ 85.2 Abbreviations.

* * * * *

BSCO—Brake specific carbon monoxide.
BSHC—Brake specific hydrocarbons.
$BSCO_x$—Brake specific oxides of nitrogen.
Exh.—Exhaust.
Hr.—Hour.
M—Mass.
WF—Weighting factor.
Σ—Summation.

4. In § 85.4, paragraphs (b) and (c) are revised and paragraph (e) is added as follows:

§ 85.4 Labeling.

* * * * *

(b) (1) The manufacturer of any heavy-duty, gasoline-fueled engine subject to any of the standards prescribed in this part shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such engines available for sale to the public and covered by a certificate of conformity under § 85.55(a).

(2) The plastic or metal label shall be welded, bonded, or otherwise permanently attached to the engine in a position in which it will be readily visible after installation in the vehicle.

(3) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(4) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(i) The label heading: Engine Exhaust Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification;

(iv) Date of engine manufacture (month and year);

(v) Engine tuneup specifications and adjustments as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop) and valve lash. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner) if any, should be in operation;

(vi) The statement: "This Engine Conforms to U.S. Environmental Protection Agency Regulations Applicable to (insert current year) Model Year Gasoline-Fueled, Heavy-Duty Engines."

(c) (1) The manufacturer of any heavy-duty diesel engine subject to any of the standards prescribed in this part shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such engines available for sale to the public and covered by a certificate of conformity under § 85.55(a).

(2) A plastic or metal label shall be welded, bonded, or otherwise permanently attached to the engine in a position in which it will be readily visible after installation in the vehicle.

(3) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(4) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(i) The label heading: Engine Exhaust Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine family identification and model;

(iv) Date of engine manufacture (month and year);

(v) Engine specification:

Advertised horsepower_____at_____r.p.m.
Fuel rate at advertised horsepower_____ mm.³/stroke.
Valve lash_____(inches).
Initial injection timing (if adjustable)_____

(The information applicable to each engine is to be inserted on the appropriate line.)

(vi) The statement: This Engine Conforms to U.S. Environmental Protection Agency Regulations Applicable to (insert current year) Model Year Heavy-Duty Diesel Engines.

* * * * *

(e) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine or vehicle part as applicable.

5. Section 85.30 is revised to read as follows:

§ 85.30 Applicability.

The provisions of this subpart are applicable to new gasoline-fueled, heavy-duty engines beginning with the 1974 model year.

6. Section 85.31 is revised to read as follows:

§ 85.31 Standards for exhaust emissions.

(a) Exhaust emissions from new gasoline-fueled, heavy-duty engines shall not exceed:

(1) Hydrocarbons plus oxides of nitrogen (as NO_2)—16 grams per brake horsepower hour.

(2) Carbon monoxide—40 grams per brake horsepower hour.

(b) The standards set forth in paragraph (a) of this section refer to a composite sample representing the operating cycle set forth in the applicable sections of "Test Procedures for Engine Exhaust Emissions (Gasoline-fueled, Heavy-Duty Engines)" of this part and measured in accordance with those procedures.

7. Section 85.32 is revised to read as follows:

§ 85.32 Test procedures.

Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart I of this part to ascertain that such test engines meet the requirements of § 85.31.

8. Subpart E is revised to read as follows:

Subpart E—Exhaust Emissions (Heavy-Duty Diesel Engines)

§ 85.40 Applicability.

The provisions of this subpart are applicable to new heavy-duty diesel engines beginning with the 1974 model year.

§ 85.41 Standards for exhaust smoke.

(a) The opacity of smoke emissions from new diesel engines subject to this subpart shall not exceed:

(1) 20 percent during the engine acceleration mode.

(2) 15 percent during the engine lugging mode.

(3) 50 percent during the peaks in either mode.

(b) The standards set forth in paragraph (a) of this section refer to exhaust smoke emissions generated under the conditions set forth in the "Test Procedures for Engine Exhaust Smoke Emissions (Heavy-Duty Diesel Engines)" of this part and measured and calculated in accordance with those procedures.

§ 85.42 Standards for exhaust gaseous emissions.

(a) Exhaust gaseous emissions from new heavy-duty diesel engines shall not exceed:

(1) Hydrocarbons plus oxides of nitrogen (as NO_2)—16 grams per brake horsepower hour.

(2) Carbon monoxide—40 grams per brake horsepower hour.

(b) The standards set forth in paragraph (a) of this section refer to exhaust gaseous emissions generated under the conditions set forth in the "Test Procedures for Engine Exhaust Gaseous Emissions (Heavy-Duty Diesel Engines)" of this part and measured and calculated in accordance with those procedures.

§ 85.43 Test procedures.

Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subparts J and K of this part to ascertain that such test engines meet the requirements of §§ 85.41 and 85.42.

9. In § 85.100, paragraphs (b) and (c) are revised to read as follows:

§ 85.100 Introduction.

* * * * *

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen concentrations during a truck driving pattern in a metropolitan area as simulated on an engine dynamometer. The test consists of two warmup cycles and two hot cycles. The average concentrations for the warmup cycles and the hot cycles are combined to yield the reported values.

(c) When an engine is tested for exhaust emissions or is operated for durability testing on an engine dynamometer the complete engine shall be used with all accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

10. In § 85.102, paragraph (a)(1) is revised and a new paragraph (a)(4) is added as follows:

§ 85.102 Dynamometer operation cycle and equipment.

(a)(1) The following nine-mode cycle shall be followed in dynamometer operation tests of gasoline fueled heavy-duty engines.

Sequence No.	Mode	Manifold vacuum (in./hg.)	Time in mode-secs.	Cumulative time-secs.	Weighting factors
1	Idle		70	70	0.232
2	Cruise	16	23	93	.077
3	PTA	10	44	137	.147
4	Cruise	16	23	160	.077
5	PTD	19	17	177	.057
6	Cruise	16	23	200	.077
7	FL	3	34	234	.113
8	Cruise	16	23	257	.077
9	CT		43	300	.143

* * * * * * * *

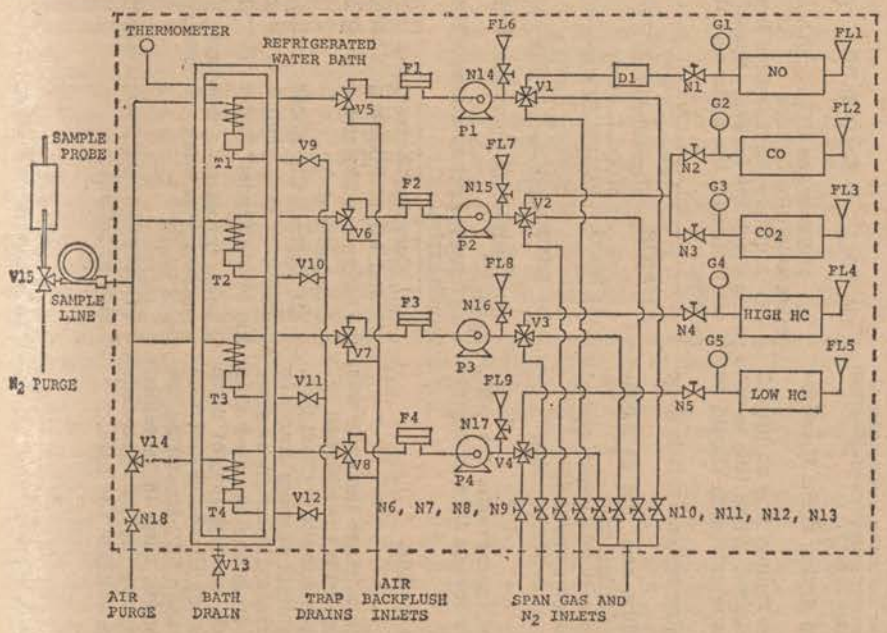
(4) If the specified manifold vacuum cannot be reached during the PTD mode, the engine shall be operated at closed throttle during that mode. If the specified manifold vacuum cannot be reached during the FL mode, the engine shall be operated at wide-open throttle during that mode.

* * * * *

11. In § 85.104, paragraphs (a) and (b) are revised, and paragraph (c) is revoked. As amended, § 85.104 reads as follows:

§ 85.104 Sampling and analytical system for measuring exhaust emissions.

(a) *Schematic drawing.* The following (fig. 6) is a schematic drawing of the exhaust gas sampling and analytical system which shall be used for testing under the regulations in this subpart.



(b) *Component description.* The following components shall be used in sampling and analytical systems for testing under the regulations in this part.

(1) Flowmeters FL1, FL2, FL3, FL4, and FL5 for indicating the sample flow rate through the analyzers.

(2) Nitric oxide NDIR analyzer.

(3) Carbon monoxide NDIR analyzer.

(4) Carbon dioxide NDIR analyzer.

(5) High-range hydrocarbon NDIR analyzer.

(6) Low-range hydrocarbon NDIR analyzer.

(7) Pressure gauges G1, G2, G3, G4, and G5 for indicating the analyzer sample pressure.

(8) Needle valves N1, N2, N3, N4, and N5 for regulating the sample flow rate to the analyzers.

(9) Drier D1 for removing water vapor from the sample.

(10) Needle valves N6, N7, N8, N9, N10, N11, N12, and N13 for regulating the flow rates of N_2 and span gases to the analyzers.

(11) Ball valves V1, V2, V3, and V4 for directing either sample or span gases to the analyzers.

(12) Needle valves N14, N15, N16, and N17 for regulating the sample flow rate through the bypass system.

(13) Flowmeters FL6, FL7, FL8, and FL9 for indicating the flow rate through the bypass system.

(14) Pumps P1, P2, P3, and P4 for forcing the samples through the analyzers.

(15) Filters F1, F2, F3, and F4 for removing contaminants from sample prior to analysis.

(16) Ball valves V5, V6, V7, and V8 for directing sample gas to the analyzers or for backflushing the sampling system with air or nitrogen.

(17) Toggle valves V9, V10, V11, V12, and V13 for draining the condensate traps and the refrigerated bath.

(18) Traps T1, T2, T3, and T4 for separating condensed water vapor from the cooled sample gases.

(19) Ball valve V14 for diverting air to the low-range hydrocarbon analyzer during periods of high hydrocarbon concentrations in the exhaust sample.

(20) Needle valve N18 for regulating the air flow to the low-range hydrocarbon analyzer during purge conditions.

(21) Thermometer for indicating the bath temperature.

(22) Refrigerated water bath for cooling the sample gases.

(23) Sample line for connecting the analysis system to the sample probe.

(24) Sample probe for extracting a sample of the exhaust downstream of the muffler.

(25) Ball valve V15 for directing nitrogen through the sampling system.

12. Section 85.105 is revised to read as follows:

§ 85.105 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Engine make—identification number—date of manufacture—number of hours—engine displacement—engine family—idle r.p.m.—number carburetors—number of carburetor venturis.

(g) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(h) Barometric pressure, intake air temperature and humidity and as applicable, the temperature of the air in front of the radiator during the test.

(i) Brake horsepower and fuel consumption.

(j) Analyzer responses, continuously recorded with zero, span and sample traces identified on each chart.

(k) Intake manifold vacuum and engine r.p.m. continuously recorded on the same chart with an automatic marker indicating 1-second intervals. Chart paper preprinted with 1-second intervals may be used in lieu of the automatic marker provided the use of the correct chart speed is verified on the chart for each test run.

13. In § 85.106, paragraphs (a) (2) and (3) and (b) (2) are revised to read as follows:

§ 85.106 Calibration and instrument checks.

(a) * * *

(2) Zero the analyzers with zero grade air or nitrogen. The allowable zero gas impurity concentrations should not exceed 10 p.p.m. equivalent carbon response, 10 p.p.m. carbon monoxide and 1 p.p.m. nitric oxide. Set the instrument gain to give the desired range. Normal operating ranges are as follows:

Low-range hydrocarbon analyzer.	–1,000 p.p.m. hexane equivalent.
High-range hydrocarbon analyzer.	0–1,000 p.p.m. hexane equivalent.
CO analyzer	0–10 percent CO.
CO_2 analyzer	0–16 percent CO.
NO analyzer	0–4,000 p.p.m. NO.

Lower operating ranges may be used as required.

(3) Calibrate with the following calibration gases. Flow rates should be set at 10 c.f.h. on the hydrocarbon and nitric oxide analyzers and 5 c.f.h. on the carbon monoxide and carbon dioxide analyzers. The concentrations given indicate nominal concentrations, and actual concentrations should be known to within ±2 percent of true value. Prepurified N_2 is used as the diluent.

Low range HC analyzer—hexane equivalent [1]	High range HC analyzer—hexane equivalent	NO analyzer—NO	CO and CO_2 analyzers—blend of CO and CO_2 containing—	
			CO	plus CO_2
p.p.m.:	*p.p.m.:*	*p.p.m.:*	*Mole percent*	*Mole percent*
100	600	250	0.5	16.0
200	1,000	500	1.0	15.0
300	1,500	750	2.0	14.0
400	2,500	1,000	3.0	13.0
600	4,000	1,500	4.0	12.0
800	6,000	2,000	6.0	10.0
1,000	8,000	2,500	8.0	8.0
-----	10,000	3,000	10.0	6.0
-----	-----	3,500	----	----
-----	-----	4,000	----	----

[1] The hexane equivalent of propane, when used as the normalizing gas for calibrating nondispersive infrared analyzers, is prescribed to be 0.52 (propane concentration×0.52=hexane equivalent concentration). Minimum storage temperature of the cylinders shall be 60° F.; minimum use temperature shall be 68° F.

* * * * *

(b) * * *

(2) Introduce the span gas and set the analyzer gain to match the response to the value indicated by the calibration curve. In order to avoid a correction for sample cell pressure, use the same flow rate as that used to calibrate the analyzer. The span gas should produce a signal from 80 to 100 percent of the full scale response. The concentration of the span gas should be known within ±2 percent of the actual gain. If gain has shifted by more than 3 percent of scale, check tuning. If necessary, check calibration. Recheck after test. Record actual concentrations on chart.

* * * * *

14. In § 85.107, paragraph (b) is revised to read as follows:

§ 85.107 Dynamometer test run.

* * * * *

(b) The following steps shall be taken for each test:

(1) Mount test engine on the engine dynamometer.

(2) Calibrate exhaust emission analyzer assembly.

(3) Check the condition of the drier in the nitric oxide analyzer sampling line. Replace the drying agent if necessary.

(4) Insert the sample line at least 2 feet into the tailpipe. When this is not possible, a tailpipe extension should be used.

(5) Start cooling system, if it is to be used.

(6) Start engine and idle at 1,000–1,200 r.p.m. for 5 minutes.

(7) Obtain normal idle speed, record it, and start exhaust sampling.

(8) Run four nine-mode cycles.

* * * * *

15. In § 85.108, paragraphs (a), (b), (c), and (e) are revised to read as follows:

§ 85.108 Chart reading.

* * * * *

(a) Determine whether the cycle was run in accordance with the specified cycle timing by observing either chart pips, speed trace, manifold vacuum trace, or concentration traces. Deviation by more than 2 seconds from the specified time for the CT mode, or deviation of more than 0.3" Hg during the cruise and PTD modes, or more than 0.2" Hg during the PTA and FL modes, from the specified mode vacuums during the last 10 seconds of a mode will invalidate the data.

(b) Time correlate the hydrocarbon, carbon monoxide, carbon dioxide, and nitric oxide charts. Determine the location on the chart of concentrations corresponding to each mode. Determine and compensate for trace abnormalities.

(c) For all open throttle (3 inches, 10 inches, 16 inches, and 19 inches Hg) and idle modes, average the last 3 seconds of the HC, CO, CO_2, and NO traces.

* * * * *

(e) Average the complete HC, CO, CO_2, and NO traces during the 43-second closed throttle mode of each cycle.

* * * * *

16. Section 85.109 is revised to read as follows:

§ 85.109 Calculations.

The final reported test results shall be derived through the following steps:

(a) Determine total carbon (TC) equivalent concentration in accordance with the following:

$$TC = \text{percent } CO_2' + \text{percent CO} + (1.8 \times 6) \text{ percent HC}$$

(b) Calculate the mass emission for HC (HC mass), CO (CO mass), and NO_x (NO_x mass) in grants per hour for each mode as follows:

$$(1)\ HC_{mass} = 10.8 \times 10^{-4} \times HC_{conc} \text{ (p.p.m.)} \times \frac{\text{Fuel consumption (gms./hr.)}}{TC}$$

$$(2)\ CO_{mass} = 2.02 \times CO_{conc} \text{ (percent)} \times \frac{\text{Fuel consumption (gms./hr.)}}{TC}$$

$$(3)\ NO_{x_{mass}} = 3.32 \times 10^{-4} \times NO_{conc} \text{ (p.p.m.)} \times \frac{\text{Fuel consumption (gms./hr.)}}{TC}$$

(c) Multiply the HC_{mass}, CO_{mass}, and NO_{xmass} values for each mode by the appropriate weighting factors.

(d) Multiply the measured brake horsepower values for each mode by the appropriate weighting factors. (Negative values are not used.)

(e) Calculate the brake specific emissions for HC, CO, and NO_x for each cycle as follows:

$$(1)\ BSHC = \frac{\Sigma(HC_{mass} \times WF)}{\Sigma(\text{measured BHP} \times WF)}$$

$$(2)\ BSCO = \frac{\Sigma(CO_{mass} \times WF)}{\Sigma(\text{measured BHP} \times WF)}$$

$$(3)\ BSNO_x = \frac{\Sigma(NO_{x_{mass}} \times WF)}{\Sigma(\text{measured BHP} \times WF)}$$

(f) Average the composite BSHC, BSCO, $BSNO_x$ emissions of the first and second cycles.

(g) Average the composite BSHC, BSCO, and $BSNO_x$ emissions of the third and fourth cycles.

(h) Combine the results of paragraphs (f) and (g) of this section according to the formula: 0.35×composite of (f)+0.65×composite of (g).

(i) Correct the $BSNO_x$ value for the humidity at test conditions by multiplying by conversion factor "K" where:

$K = 0.634 + 0.00654H - 0.0000222H^2$

H=Humidity at test conditions, grain H_2O/lb. dry air.

17. In § 85.110, a new paragraph (f) is added as follows:

§ 85.110 Test engines.

* * * * *

(f) For purposes of testing under § 85.112(g), the Administrator may require additional emission data engines and durability data engines identical in all material respects to engines selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of engines selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one engine whichever is greater.

18. In § 85.112, the first paragraph and paragraphs (a) and (b) are revised and a new paragraph (g) is added as follows:

§ 85.112 Service accumulation and emission measurements.

The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and the modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 r.p.m. (but not in excess of governed speed for governed engines or rated speed for nongoverned engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(a) Emission data engines: Each emission data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(b) Durability data engines: Each durability data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Emission measurements, as prescribed, shall be made at zero hours and at each 125-hour interval. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the induction systems.

* * * * *

(g) (1) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(2) The test procedures (§§ 85.101–85.109) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

19. In § 85.113, paragraph (c) is revised to read as follows:

§ 85.113 Compliance with emission standards.

* * * * *

(c) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data engines for each engine-system combination. Separate factors shall be established for CO and for the combined emissions of HC and NO_x.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.112(b), except the zero-hour tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability engines of the combination selected under § 85.110(c) (including all engines elected to be operated by the manufacturer under § 85.110(c)(3)).

(*b*) All emission data from the tests conducted before and after maintenance provided in § 85.111(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,500-hour points on this line must be within the standard provided in § 85.31 or the data shall not be used in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

Factor = Exhaust emissions interpolated to 1,500 hours minus the exhaust emissions interpolated to 125 hours.

(2) The appropriate deterioration factor shall be added to the exhaust emission test results for each emission data engine: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is negative, that deterioration factor shall be zero when comparing adjusted emissions to the standards.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data engine.

(4) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any engine in that family will be certified.

20. The heading of Subpart J is revised to read as follows:

Subpart J—Test Procedures for Engine Exhaust Smoke Emissions (Heavy-Duty Diesel Engines).

21. In § 85.122, paragraph (a)(2)(ii) is revised to read as follows:

§ 85.122 Dynamometer operation cycle for smoke emission tests.

(a) * * *

(2) * * *

(ii) The engine shall be accelerated at full-throttle against the inertia of the engine and dynamometer or alternately against a preselected dynamometer load such that the engine speed reached 85 to 90 percent of rated speed in 5±1.5 seconds. This acceleration shall be linear within ±100 r.p.m.

* * * * *

22. In § 85.123, paragraph (c) is revised to read as follows:

§ 85.123 Dynamometer and engine equipment.

* * * * *

(c) A noninsulated exhaust system extending 15±5 feet from the exhaust manifold, or the crossover junction in the case of V engines, and presenting an exhaust back pressure within ±0.2 inch Hg of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be circular cross sectio and be free of elbows and bends. The end of the pipe shall be circular cross section and be inal 2 feet of the exhaust pipe shall have a diameter in accordance with the engine being tested, as specified below:

	diameter, inches Exhaust pipe
Maximum rated horsepower:	
Less than 101	2
101 to 200	3
201 to 300	4
301 or more	5

* * * * *

23. In § 85.124, paragraph (c) is revised to read as follows:

§ 85.124 Smoke measurement system.

* * * * *

(c) *Assembling equipment.* (1) The optical unit of the smokemeter shall be mounted radially to the exhaust pipe so that the measurement will be made at right angles to the axis of the exhaust plume. The distance from the optical centerline to the exhaust pipe outlet shall be 5±1 inch. The full flow of the exhaust stream shall be centered between the source and detector apertures (or windows and lenses) and on the axis of the light beam.

(2) Power shall be supplied to the control unit of the smokemeter in time to allow at least 15 minutes for stabilization prior to testing.

24. In § 85.126, paragraph (a)(3) is revised to read as follows:

§ 85.126 Instrument check.

(a) * * *

(3) Calibrated neutral density filters having approximately 10, 20, and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the beam and adjacent to the opening from which the beam of light from the light source

emanates, and the recorder response shall be noted. The nominal opacity value of the filter will be confirmed by the Administrator. Deviations in excess of 1 percent of the nominal opacity shall be corrected.

* * * * *

25. In § 85.127, paragraph (c)(8) is revised to read as follows:

§ 85.127 Test run.

* * * * *

(c) * * *

(8) During the test sequence of § 85.122, continuously record smoke measurements, engine r.p.m., and torque at a chart speed of 1 inch per minute minimum during the idle mode and transitional modes and 8 inches per minute minimum during the acceleration and lugging modes. The smokemeter zero and full scale recorder deflections may be rechecked during the idle mode of each test sequence. If either zero or full scale drift is in excess of 2 percent opacity, the smokemeter controls must be readjusted and the test must be repeated.

* * * * *

26. In § 85.128, a new paragraph (a)(4) is added as follows:

§ 85.128 Chart reading.

(a) * * *

(4) Examine the average one-half second values which were determined in subparagraphs (2) and (3) of this paragraph and record the three highest values for each dynamometer cycle.

27. In § 85.129, a new paragraph (c) is added as follows:

§ 85.129 Calculations.

* * * * *

(c) Average the nine readings in § 85.128(a)(4) and designate the value as "c".

28. In § 85.130, paragraphs (b) and (c) are revised and a new paragraph (f) is added as follows:

§ 85.130 Test engines.

* * * * *

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into groups based upon exhaust emission control system. Two engines of each engine-system combination shall be run for smoke emission data as prescribed in § 85.132(a). Within each combination, the engines that feature the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will be selected. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated torque will be selected. If there are military engines with higher fuel rates than other engines in the same engine system combination, then two military engines with the highest fuel feed per stroke shall be also selected.

(c) Durability data engines:

(1) One engine from each engine-system combination shall be tested as prescribed in § 85.132(b). Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will be selected for durability testing. If an engine system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will be selected for durability testing.

(2) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine system combination.

* * * * *

(f) For purposes of testing under § 85.132(g), the Administrator may require additional emission data engines and durability data engines identical in all material respects to engines selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of engines selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one engine, whichever is greater.

29. In § 85.132, paragraphs (a) and (b) are revised and new paragraphs (g) and (h) are added as follows:

§ 85.132 Service accumulation and emission measurements.

* * * * *

(a) *Emission data engines.* Each engine shall be operated on a dynamometer for 125 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhause back pressure specified in § 85.123(c) and the air inlet restriction specified in § 85.123(d) except that the tolerances shall be ±0.5 inch of Hg and ±3 inches of water respectively. Exhaust emission tests shall be conducted at zero and 125 hours of operation.

(b) *Durability data engines.* Each engine shall be operated on a dynamometer for 1,000 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.123(c) and the air inlet restriction specified in § 85.123(d) except that the tolerances shall be ±0.5 inch of Hg and ±3 inches of water respectively. Exhaust emission measurements shall be made at zero hours and at each 125 hours of operation. All results except the zero hour results shall be used to establish the deterioration factors (see § 85.133).

* * * * *

(g) (1) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(2) The test procedures (§§ 85.120–85.129) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(h) A break-in procedure, not to exceed 20 hours, may be run if approved in writing in advance by the Administrator. This procedure would be run after the 0 hour test; and the hours accumulated would not be counted as part of the service accumulation.

30. In § 85.133, paragraphs (c) (1) and (2) are revised to read as follows:

§ 85.133 Compliance with emission standards.

* * * * *

(c) The procedure for determining compliance with exhaust smoke emission standards in heavy-duty diesel engines is as follows:

(1) Emission deterioration factors for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and the peak opacity (designated as "C") shall be established separately for each engine-system combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.132(b), except the 0-hour tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability engines of the combination selected under § 85.130(c) (including all engines selected to be operated by the manufacturer under § 85.130(c)(2)).

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.131(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the sys-

tem, rounded to the nearest hour, and the best fit-straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,000-hour points on this line must be within the standard provided in § 85.41 or the data shall not be used in calculation of a deterioration factor.

(iii) The deterioration factors will be calculated as follows:

A—Percent opacity "a", interpolated to 1,000 hours, minus percent opacity "'a", interpolated to 125 hours.

B—Percent opacity "b", interpolated to 1,000 hours, minus percent opacity "b", interpolated to 125 hours.

C—Percent opacity "c", interpolated to 1,000 hours, minus percent opacity "c", interpolated to 125 hours.

(2) The "percent opacity" values to compare with the standards shall be the opacity values "a", "b", and "c" for each emission data engine within an engine-system combination to which are added the respective factors "A", "B", and "C" of subparagraph (1) of this paragraph for that engine-system combination: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

* * * * *

31. A new subpart, Subpart K, is added as follows:

Subpart K—Test Procedures for Engine Exhaust Gaseous Emissions (Heavy-Duty Diesel Engines)

§ 85.140 Introduction.

(a) The procedures described in this subpart will be the test program to determine the conformity of heavy-duty diesel engines with the applicable standards set forth in this part.

(b) The test procedure begins with a warm engine and consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases.

(c) The test is designed to determine the brake-specific emissions of hydrocarbons, carbon monoxide and oxides of nitrogen when an engine is operated through a cycle which consists of three idle modes and five power modes at each of two speeds which span the typical operating range of diesel engines. The procedure requires the determination of the concentration of each pollutant, the exhaust flow and the power output during each mode. The measured values are weighted and used to calculate the grams of each pollutant emitted per brake-horsepower hour.

(d) When an engine is tested for exhaust emissions or is operated for durability testing on an engine dynamometer the complete engine shall be used with all standard accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning.

§ 85.141 Diesel fuel specifications.

The requirements of § 85.121 shall be applicable to testing under this subpart.

§ 85.142 Dynamometer procedure.

(a) The following 13-mode cycle shall be followed in dynamometer operation tests of heavy-duty diesel engines:

Mode No.	Engine speed	Percent load
1	Low idle	0
2	Intermediate	2
3	do	25
4	do	50
5	do	75
6	do	100
7	Low idle	0
8	Rated	100
9	do	75
10	do	50
11	do	25
12	do	2
13	Low idle	0

(b) During each mode the specified speed shall be held to within 50 r.p.m. and the specified torque shall be held to within 2 percent of the maximum torque at the test speed. For example, the torque for mode 4 shall be between 48 and 52 percent of the maximum torque measured at the intermediate speed.

§ 85.143 Dynamometer and engine equipment.

The following equipment shall be used for emission testing of engines on engine dynamometers:

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in § 85.142.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 15 ±5 feet from the exhaust manifold, or the crossover junction in the case of Vee engines, and presenting an exhaust black pressure within ±0.2 inch Hg of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during emission testing.

(d) An engine air inlet system presenting an air inlet restriction within ±1 inch of water of the upper limit for the engine operating condition which results in maximum airflow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 85.144 Sampling and analytical methods.

(a) The determination of the carbon monoxide and nitric oxide concentrations shall be accomplished using sampling and analysis components as specified in sections 2.1 and 2.2 of SAE Recommended Practice No. J177 titled, "Measurement of Carbon Dioxide, Carbon Monoxide and Oxides of Nitrogen in Diesel Exhaust," dated June 1970.

(b) The determination of the hydrocarbon concentrations shall be accomplished using sampling and analysis components as specified in sections 2.1 and 2.2 of SAE Recommended Practice No. J215 titled, "Continuous Hydrocarbon Analysis of Diesel Exhaust," dated November 1970.

(c) The determination of the intake airflow or exhaust flow shall be accomplished using SAE Recommended Practice No. J244 titled, "The Measurement of Intake or Exhaust Flow in Diesel Engines," dated May 1971.

§ 85.145 Information.

The following information shall be recorded:

(a) Test number.

(b) Date and time of day.

(c) Instrument operator.

(d) Engine operator.

(e) Engine identification numbers—date of manufacture—number of hours of operation accumulated on engine—engine family—exhaust pipe diameter—fuel injector type—low idel r.p.m., governed speed, maximum power and torque speeds—maximum horsepower and torque—fuel consumption at maximum power and torque—air aspiration system—exhaust system back pressure—air inlet restriction.

(f) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(g) Recorder chart. Identify zero traces—calibration or span traces—emission concentration traces for each test mode—start and finish of each test.

(h) Ambient temperature in dynamometer testing room.

(i) Engine intake air temperature and humidity for each mode.

(j) Barometric pressure.

(k) Observed engine torque for each mode.

(l) Intake airflow or exhaust flow for each mode.

(m) Fuel flow and temperature for each mode.

§ 85.146 Calibration and instrument checks.

Calibration and instrument checks shall be performed according to section 2.3.1 of SAE Recommended Practice No. J177, dated June 1970, and sections 3 and 7 of SAE Recommended Practice No. J215, dated November 1970, except that the instrument zeros need not be checked after each analysis but as necessary to maintain test validity. Calibration and checks of other instruments used for the test shall be performed as necessary according to good practice.

§ 85.147 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F. and 86° F. The fuel temperature at the pump inlet shall be 100° F. ±10° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance shall be made for in-

creased emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels specified by the engine manufacturer for maximum rated horsepower and maximum rated torque. These specifications shall be reported in accordance with § 85.51 (b)(3).

(c) The following steps shall be taken for each test:

(1) Install instrumentation and sample probes as required.

(2) Start cooling system.

(3) Start the engine, warm it up and precondition it by running it at rated speed and maximum horsepower for 10 minutes or until all temperatures and pressures have reached equilibrium.

(4) Determine by experimentation the maximum torque at rated speed and intermediate speed to calculate the torque values for the specified test modes.

(5) Zero and span the emission analyzers.

(6) Start the test sequence of § 85.142. Operate the engine for 10 minutes in each mode, completing engine speed and load changes in the first minute. Record the responses of the analyzers on a strip chart recorder for the full 10 minutes with exhaust gas flowing through the analyzers at least during the last 5 minutes. Record the engine speed and load, intake air temperature and restriction, exhaust back pressure, fuel flow and air or exhaust flow during the last 5 minutes of each mode, making certain that the speed and load requirements of § 85.142 (b) are met during the last minute of each mode. Fuel flow during idle or 2 percent load conditions may be determined just prior to or immediately following the dynamometer sequence if longer times are required for accurate measurements.

(7) Read and record any additional data as required for § 85.145.

(8) Check and reset the zero and span settings of the emission analyzers as required but at least at the end of the second idle mode (mode No. 7) and at the end of the test. If a change of over 2 percent of full-scale response is observed, make necessary adjustments to the analyzers and repeat all test modes since the last zero and span check.

(9) Backflush condensate trap and replace filters as required.

§ 85.148 Chart reading.

(a) Locate the last 60 seconds of each mode and determine the average chart reading for HC, CO, and NO over the 1-minute period.

(b) Determine the concentration of HC, CO, NO during each mode from the average chart readings and the corresponding calibration data.

§ 85.149 Calculations.

The final reported test results shall be derived through the following steps:

(a) Determine the exhaust gas mass-flow rate for each mode according to the SAE Recommended Practice J244 dated May 1971.

(b) Convert the measured carbon monoxide and nitric oxide concentrations to a wet basis according to sections 4 and 5.4 of SAE Recommended Practice No. J177 (see § 85.144(a)).

(c) Multiply the corrected nitric oxide values by the following humidity correction factor.

$$\frac{1}{1-0.0025\ (H-75)}$$

Where H is the humidity of the inlet air measured as grains of H_2O per pound of dry air.

(d) Calculate the mass emissions of HC (HC mass), CO (CO mass), and NO_x (NO_x mass) in grams per hour for each mode as follows:

(1) $HC_{mass}=0.0132\times HC_{conc}\times$exhaust mass (lb./min.).

(2) $CO_{mass}=0.0263\times CO_{conc}\times$exhaust mass (lb./min.).

(3) $NO_{xmass}=0.0432\times NO_{conc}\times$exhaust mass (lb./min.).

(e) Calculate the weighted brake horsepower and HC, CO, and NO_x mass values as follows:

(1) Multiply the average of the three idle values by a weighting factor of 0.2.

(2) Multiply the values for all of the other modes by a weighting factor of 0.08.

(f) Calculate the brake specific emissions for HC, CO, and NO_x for each set of data as follows:

$$BSHC=\frac{\Sigma(HC_{mass}\times WF)}{\Sigma(\text{Measured BHP}\times WF)}$$

$$BSCO=\frac{\Sigma(CO_{mass}\times WF)}{\Sigma(\text{Measured BHP}\times WF)}$$

$$BSNO_x=\frac{\Sigma(NO_{xmass}\times WF)}{\Sigma(\text{Measured BHP}\times WF)}$$

§ 85.150 Test engines.

The test engines selected for testing under § 85.130 shall be used as the test engines for this subpart. The engines may be tested with the test procedure in Subpart J and the test procedure in this subpart consecutively at each test point irrespective of the requirements of §§ 85.132(b) and 85.151(a).

§ 85.151 Service accumulation; emission measurements; maintenance.

(a) Service accumulation and emission measurements shall be performed in accordance with the provisions of § 85.132.

(b) Maintenance on test engines shall be performed in accordance with the provisions of § 85.131.

§ 85.152 Compliance with emission standards.

(a) The exhaust gaseous emission standards in § 85.42 apply to the emissions of engines for their useful life.

(b) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(c) The procedure for determining complance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data engines for each engine-system combination. Separate factors shall be established for CO and for the combined emissions of HC and NO_x.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.132(b) except the zero-hour tests. This shall include the official test results, as determined in § 85.54 for all tests conducted on all durability engines of the combination selected under § 85.130(c) (including all engines selected to be operated by the manufacturer under § 85.130(c)(2)).

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.131(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit-straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpointed 125- and 1,000-hour points on this line must be within the standard provided in § 85.42 or the data shall not be used in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

Factor=Exhaust emissions interpolated to 1,000 hours minus the exhaust emissions interpolated to 125 hours.

(2) The appropriate deterioration factor shall be added to the exhaust emissions test results for each emissions data engine: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is negative, that deterioration factor shall be zero when comparing adjusted emissions to the standards.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data engine.

(4) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any engine in that family will be certified.

These regulations are published pursuant to section 202 of the Clean Air Act as amended, 42 U.S.C. 1857f-1 et seq.

Dated: August 30, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-15118 Filed 9-7-72;8:45 am]

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PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Modifications to Area Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Modifications to Area Wage Determination Decisions

Modifications to area wage determination decisions for specified localities in the States of California, Illinois, Louisiana, Oklahoma, Pennsylvania, and Washington.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-9,681	Feb. 25, 1972.
AM-6,707	Mar. 10, 1972.
AM-11,410	Mar. 31, 1972.
AM-6,734	June 23, 1972.
AP-5; AP-6	Aug. 4, 1972.
AP-8; AP-308	Aug. 11, 1972.

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a), and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of the Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modifications to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 is set forth in the document being modified.

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

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-6,734 - Mod. #2 (37 FR 12442 - June 23, 1972) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Plumas, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California						
Change:						
Painters:						
Monterey, San Benito, San Mateo, Santa Clara, & Santa Cruz Cos.:						
Brush	$7.77	.64	.65			
Steel	8.02	.64	.65			
DECISION #AP-6 - Mod. #1 (37 FR 15809 - August 4, 1972) St. Clair County, Illinois						
Change:						
Boilermakers	$8.35	.40	.65		.01	
Boilermakers' helpers	8.10	.40	.65		.01	
Cement Masons:						
Heavy & Highway Construction	8.325	.25	.25			
Sprinkler fitters	8.75	.30	.50		.05	
DECISION #AP-5 - Mod. #1 (37 FR 15802 - August 4, 1972) Madison County, Illinois						
Add:						
Footnote F - Christmas Day under footnotes						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-8 - Mod. #2 (37 FR 16321 - August 11, 1972) Cook County, Illinois						
Change:						
Carpenters (Building, Heavy & Highway Construction):						
Carpenters, Millwrights, Pile-drivermen, Soft floor layers	$8.30	.45	.625		.08	
Pointers, Caulkers & Cleaners	8.45	.45	.45			
Sprinkler fitters	8.75	.30	.50		.05	
DECISION #AM-11,410 - Mod. #8 (37 FR 6614 - March 31, 1972) Orleans, Jefferson, Plaquemines, and St. Bernard Parishes, Louisiana						
Change:						
Electricians & Cable Splicers	$7.88	.20	1% + .10		.015	
Painters:						
Brush & Paperhanger	5.375	.175	.20		.05	
Structural steel, swing stage and spray	5.75	.175	.20		.05	
Omit:						
Sandblaster	6.375	.125				
DECISION #AP-308 - Mod. #3 (37 FR 16354 - August 11, 1972) Oklahoma County, Oklahoma						
Change:						
Asbestos Workers	$7.45	.25	.30		.02	
DECISION #AM-9,681 - Mod. #6 (37 FR 4030 - February 25, 1972) Montgomery Co., Pennsylvania						
Change:						
Modification #4 - 37 FR 17318 - August 25, 1972 to read Modification #5						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-6,707 - Mod. #1 (37 FR 5195 - March 10, 1972) Clallam-Grays Harbor-Island-Jefferson-King-Kitsap-Lewis-Mason-Pierce-San Juan-Skagit-Snohomish-Thurston and Whatcom Counties, Washington						
Change:						
Boilermakers	$6.95	.60	1.00	.50	.02	
Bricklayers; Stonemasons:						
Clallam-Island-Jefferson-King-Kitsap-Snohomish-Skagit (south of the cities of Burlington, Sedro-Woolley and Concrete) Counties	7.70	.35	.25		.02	
Lewis-Mason-Thurston Counties	6.70	.35	.30			
Carpenters:						
Carpenters	7.00	.50	.50		.01	
Carpenters on creosoted material	7.10	.50	.50		.01	
Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Shingles; Floor Sander; & other Stationary Power Woodworking tools	7.13	.50	.50		.01	
Millwrights and Machine Erectors; Piledrivers; Bridge, Dock and Wharf Builders	7.15	.50	.50		.01	
Acoustical Workers	7.56	.50	.50		.01	
Boommen	7.20	.50	.50		.01	
Cement Masons:						
Lewis-Pierce-Thurston, and the city of Auburn in King Co.	6.20	.40	.50		.02	
King (except the City of Auburn)	6.19	.25	.20			
Clallam-Grays Harbor-Island-Jefferson-Kitsap-Mason-San Juan-Skagit-Snohomish-Whatcom Counties	6.39	.45	.50			
Glaziers	6.61	.22	.35	b		

MODIFICATIONS P. 4

DECISION #AM-6707 - Mod.#1 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Marble Masons:						
Clallam-Island-Jefferson-King-Kitsap-Snohomish-Skagit-(south of the cities of Burlington, Sedro-Woolley and Concrete) Counties	$7.70	.35	.25		.02	
Lewis-Mason-Thurston Counties	6.70	.35	.30			
Painters:						
Remaining Counties:						
Brush; Tapers	6.92	.40	.27		.02	
Spray; Structural Steel; Bridge; Sandblasting; Stacks; Steam Cleaning; Steeples; Swing Stage; Tanks on legs; Tower; Toxic material	7.17	.40	.27		.02	
Plasterers:						
Clallam-Island-Jefferson-King (except the City of Kent)-Kitsap-Skagit-San Juan-Snohomish-Whatcom Counties	7.51	.30	.25		.02	
Plumbers:						
Clallam-King-Jefferson Counties	8.19	.47	.55		.06	
Remainder of Counties	7.52	.26	.55	.47	.06	
FOOTNOTE:						
b. Two weeks' vacation with pay after 1 year of employment. Also seven paid holidays. A through F plus Washington's Birthday.						
PAID HOLIDAYS:						
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.						
Omit:						
Boilermakers' Helpers	6.40	.30	.70	.45	.02	
FOOTNOTE:						
c. Two weeks' vacation with pay.						
Add:						
Drywall applicators	6.60	.45	.25		.01	

[FR Doc.72-15149 Filed 9-7-72;8:45 am]

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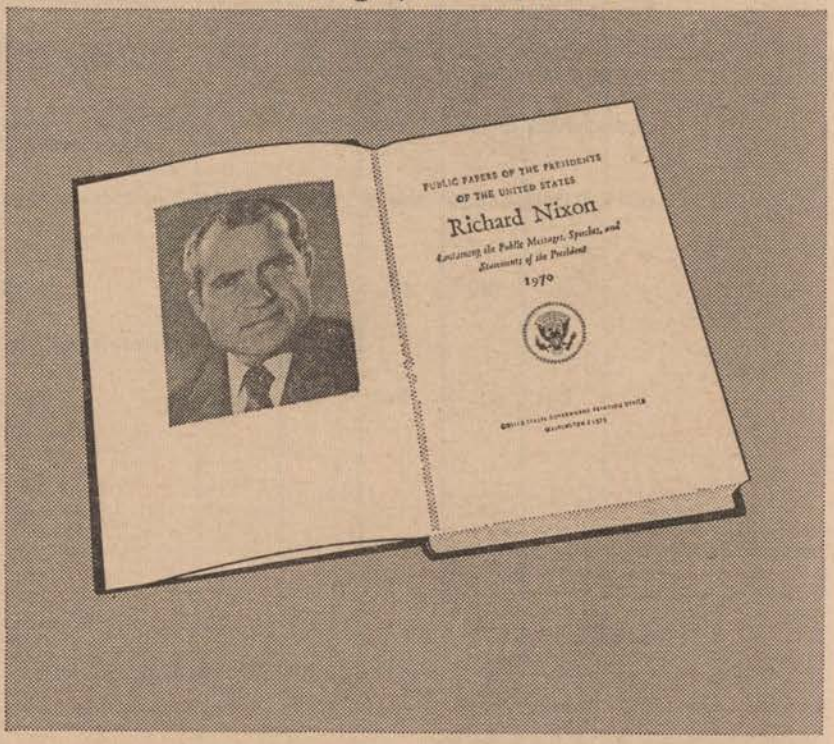

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