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HIGHLIGHTS OF THIS ISSUE

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FEDERAL REGISTER

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

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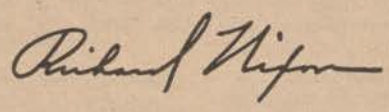
EXECUTIVE ORDER 11689

Extending Diplomatic Privileges and Immunities to the Mission to the United States of America of the Commission of the European Communities and to Certain Members Thereof

By virtue of the authority vested in me by the Act of October 18, 1972 (Public Law 92–499), and as President of the United States, I hereby extend to the Mission to the United States of America of the Commission of the European Communities, and to the officers of that Mission assigned to Washington to represent the Commission to the Government of the United States and duly notified to and accepted by the Secretary of State, and to their families, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic missions accredited to the United States and by members of the diplomatic staffs thereof.



THE WHITE HOUSE,
December 5, 1972.

[FR Doc.72–21177 Filed 12–6–72;9:47 am]

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Title 7—AGRICULTURE

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

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED DAIRY PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

Subpart I—U.S. Standards for Grades of Monterey (Monterey Jack) Cheese

A notice of proposed rule making covering the issuance of U.S. standards for grades of Monterey (Monterey Jack) cheese was published in the FEDERAL REGISTER of September 13, 1972 (37 F.R. 18556). It afforded interested persons the opportunity to submit within 60 days to the Hearing Clerk written data, views, or arguments in connection with the proposal.

Statement of consideration. For several years the Department has received requests for official grading service on Monterey cheese. In addition a cheese manufacturer and two State departments of agriculture in major cheese producing States have indicated an interest in a U.S. grade standard. The standards being promulgated identify the various quality characteristics that will be used in the three grades within the standard.

In response to the notice of the proposed rule making, the Hearing Clerk received three comments. Two of the comments were favorable to the establishment of this standard. The other comment questioned the need for a U.S. grade standard for Monterey cheese.

Therefore, U.S. standards for grades of Monterey (Monterey Jack) cheese are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

The standards are as follows:

Subpart I—U.S. Standards for Grades of Monterey (Monterey Jack) Cheese

DEFINITIONS

Sec.

U.S. GRADES

EXPLANATION OF TERMS

Sec.

AUTHORITY. The provisions of this Subpart I issued under secs. 202–208, 60 Stat. 1087, as amended: 7 U.S.C. 1621–1627.

DEFINITIONS

§ 58.2465 Monterey (Monterey Jack) cheese.

"Monterey cheese" is cheese made by the Monterey process or by any other procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced by the Monterey process. The physical attributes of Monterey cheese are as follows: White to light cream in color; mild to mellow flavor; a semi-soft body which contains more moisture and is softer than Colby; texture is similar to Colby and the mechanical holes are evenly dispersed. The cheese is made from cow's milk. It contains added common salt, contains not more than 44 percent of moisture, and in the water-free substance, contains not less than 50 percent of milk fat and conforms to the provisions of § 19.580, "Definitions and Standards of Identity of Cheese and Cheese products," Food and Drug Administration (21 CFR Part 19).

§ 58.2466 Types of surface protection.

The following are the types of surface protection for Monterey cheese:

(a) *Bandaged and paraffin-dipped.* The cheese is bandaged and dipped in a refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other suitable substance. Such coating is a continuous, unbroken and uniform film adhering tightly to the entire surface of the cheese.

(b) *Paraffin-dipped.* The cheese is dipped in a refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other film adhering tightly to the entire surface of the cheese.

(c) *Rindless.* The cheese is properly wrapped in a wrapper or covering, or by any other protective covering which will not impart any color or objectionable odor or flavor to the cheese. The wrapper or covering is sealed with a sufficient overlap or satisfactory closure to prevent air leakage. The wrapper or covering is of sufficiently low permeability to water vapor and air so as to prevent the formation of rind and prevent the entrance of air during the curing and holding periods.

U.S. GRADES

§ 58.2467 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows: (a) U.S. grade AA; (b) U.S. grade A; (c) U.S. grade B.

§ 58.2468 Basis for determination of U.S. grades.

The determination of U.S. grades of Monterey cheese shall be on the basis of rating the following quality factors: (a) flavor, (b) body and texture, (c) color, (d) finish and appearance. The rating of each quality factor shall be established on the basis of characteristics present in any vat of cheese. The cheese shall be graded no sooner than 5 days of age. The cheese shall be held at no lower than 35° F. during this period. The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.

§ 58.2469 Specifications for U.S. grades of Monterey (Monterey Jack) cheese.

The general requirements for the U.S. grades of Monterey cheese are as follows:

(a) *U.S. grade AA.* U.S. grade AA Monterey cheese shall conform to the following requirements:

(1) *Flavor.* Is fine and highly pleasing, free from undesirable flavors and odors. May possess a characteristic Monterey cheese flavor or may be lacking in flavor development. May possess a very slight acid or feed flavor, but shall be free from any undesirable flavors and odors. See Table I.

(2) *Body and texture.* A plug drawn from the cheese shall be reasonably firm. It shall have numerous small mechanical openings evenly distributed throughout the plug. It shall not possess sweet holes, yeast holes, or other gas holes. The texture may be definitely curdy or may be partially broken down if more than 3 weeks old. See Table II.

(3) *Color.* Shall have a natural, uniform, bright attractive appearance. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm, and smooth providing a good protection to the cheese. The bandage shall be evenly placed on the end and over the entire surface of the cheese and free from unnecessary overlapping and wrinkles, and not burst or torn. The cheese surface shall be smooth, bright, and have a good coating of paraffin or wax that adheres firmly to the entire surface of the cheese. The cheese shall be free from mold under the bandage and paraffin. The cheese shall be free from high edges, huffing, and lopsidedness, but may possess soiled surface to a very slight degree. See Table IV.

(ii) *Paraffin-dipped.* The rind shall be sound, firm, and smooth providing a good protection to the cheese. The cheese surface shall be smooth, bright, and have a good coating of paraffin or wax that adheres firmly to the entire surface of the cheese. The cheese shall be free from mold under the paraffin. The cheese shall

be free from high edges, huffing, rough surfaces and lopsidedness, but may possess soiled surface to a very slight degree. See Table IV.

(iii) *Rindless.* The wrapper or covering shall be practically smooth, properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and adequately and securely envelop the cheese but may be slightly wrinkled. Allowances should be made for wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed or lopsided. See Table IV.

(b) *U.S. grade A.* U.S. grade A Monterey cheese shall conform to the following requirements.

(1) *Flavor.* Is pleasing characteristic flavor free from undesirable flavors and odors. May possess a slightly characteristic Monterey cheese flavor or may be lacking in flavor development. May possess very slight bitter and slight acid and feed but shall not possess undesirable flavors and odors. See Table I.

(2) *Body and texture.* A plug drawn from the cheese shall be reasonably firm. It shall have numerous mechanical openings but the openings shall not be large and connecting. It shall not possess more than two sweet holes per plug, and the plug shall be free from other gas holes. The body may be definitely curdy or partially broken down if more than 3 weeks old. See Table II.

(3) *Color.* Shall have a natural, fairly uniform, bright, attractive appearance. May possess the following characteristic to a very slight degree, wavy. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm and smooth, providing good protection to the cheese. The bandage may be slightly uneven, overlapped, or wrinkled but not burst or torn. The surface shall be practically smooth, bright, and have a good coating of paraffin or wax that adheres firmly to all surfaces of the cheese. The cheese shall be free from mold under the bandage. May possess the following characteristics to a very slight degree: soiled surface and surface mold; and to a slight degree: rough surface, irregular bandaging, lopsided and high edges. See Table IV.

(ii) *Paraffin-dipped.* The rind shall be sound, firm, and smooth providing a good protection to the cheese. The cheese surface shall be practically smooth, bright, and have a good coating of parafin or wax that adheres firmly to all surfaces of the cheese. The cheese shall be free from mold under the parafin. Shall be free from huffing, but may possess soiled surface and surface mold to a very slight degree; and rough surface, high edges, and lopsidedness to a slight degree. See Table IV.

(iii) *Rindless.* The wrapper or covering shall be properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and adequately and securely envelop the cheese, but may be slightly wrinkled. Allowances should be made for wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed but may be slightly lopsided. See Table IV.

(c) *U.S. grade B.* U.S. grade B Monterey cheese shall conform to the following requirements.

(1) *Flavor.* Should possess a fairly pleasing characteristic Monterey cheese flavor, or may be lacking in flavor development. May possess very slight onion and sour, and the following flavors to a slight degree: flat, bitter, fruity, utensil, whey-taint, yeasty, malty, old milk, weedy, barny, and lipase; and the following to a definite degree; acid and feed flavor. See Table I.

(2) *Body and texture.* A plug drawn from the cheese may be open and may have numerous sweet holes, scattered yeast holes, and other scattered gas holes; and may possess various other body defects. Pinny gas holes are not permitted. A plug drawn from the cheese may have numerous mechanical openings varying in size and dispersement and may possess the following characteristics to a slight degree: coarse, short, mealy, weak, pasty, crumbly, gassy, slitty, and corky; the following to a definite degree: curdy and sweet holes. See Table II.

(3) *Color.* Natural but may possess the following characteristics to a slight degree: wavy, acid-cut, unnatural, mottled, salt spots, dull, or faded. In addition, rindless Monterey cheese may have a bleached surface to a slight degree. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be reasonably sound, may be slightly weak, but free from soft spots, rind rot, cracks, and openings of any kind. The bandage may be uneven and wrinkled but not burst or torn. The surface may be rough and unattractive but shall possess a fairly good coating of paraffin or wax. The paraffin may be scaly or blistered, with very slight mold under the bandage or paraffin but there shall be no indication that mold has entered the cheese. May possess the following characteristics to a slight degree; soiled surface, surface mold, defective coating, checked rind, weak rind, and sour rind; and to a definite degree; rough surface, irregular bandaging, lopsided and high edges. See Table IV.

(ii) *Paraffin-dipped.* The rind shall be sound, firm, and smooth providing a good protection to the cheese. The cheese surface may be rough and unattractive but shall possess a fairly good coating of paraffin or wax. The paraffin may be scaly or blistered, with very slight mold under the paraffin, but there shall be no indication that mold has entered the cheese. May possess the following characteristics to a slight degree: Soiled surface, surface mold, defective coating, checked rind, weak rind, and sour rind; and to a definte degree: Rough surface, lopsided and high edges. See Table IV.

(iii) *Rindless.* The wrapper or covering shall be fairly smooth and properly sealed with adequate overlapping at the seams or sealed by other satisfactory type of closure. The wrapper or covering shall be fairly neat and adequately and securely envelop the cheese. Allowances should be made for wrinkles caused by crimping or sealing when vacuum packaging is used. The following characteristics may be present to a very slight degree: mold under the wrapper but not entering the cheese; to a slight degree: soiled surface, surface mold, lopsided, and the following to a definite degree: rough surface and wrinkled wrapper or cover. See Table IV.

TABLE I—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	AA	A	B
Feed	VS	S	D
Acid	VS	S	D
Flat			S
Bitter		VS	S
Fruity			S
Utensil			S
Sour			VS
Whey-Taint			S
Yeasty			S
Malty			S
Old Milk			S
Weedy			S
Onion			VS
Barny			S
Lipase			S

VS—Very Slight S—Slight D—Definite P—Pronounced.

TABLE II—CLASSIFICATION OF BODY AND TEXTURE

Identification of body and texture characteristics	AA	A	B
Curdy	D	D	D
Coarse			S
Sweet holes		S	D
Short			S
Mealy			S
Weak			S
Pasty			S
Crumbly			S
Gassy			S
Slitty			S
Corky			S

TABLE III—CLASSIFICATION OF COLOR

Identification of color characteristics	AA	A	B
Wavy		VS	S
Acid-cut			S
Unnatural			S
Mottled			S
Salt spots			S
Dull or faded			S
Bleached surface (rindless)			S

VS—Very Slight S—Slight D—Definite P—Pronounced.

TABLE IV—CLASSIFICATION OF FINISH AND APPEARANCE

Identification of finish and appearance characteristics	AA	A	B
Soiled surface	VS	VS	S
Surface mold	VS	S	S
Mold under bandage and paraffin			VS
Mold under wrapper or covering (rindless).			VS
Rough surface		S	
Irregular bandaging (uneven, wrinkled and overlapping).		S	D
Lopsided		S	D
Lopsided (rindless)		S	S
High edges		S	D
Defective coating (scaly, blistered and checked).			S
Checked rind			S
Weak rind			S
Sour rind			S
Wrinkled wrapper or covering (rindless).	S	S	D

VS—Very Slight S—Slight D—Definite P—Pronounced.

§ 58.2470 U.S. grade not assignable.

(a) Monterey (Monterey Jack) cheese which fails to meet the requirements for U.S. grade B or higher shall not be given a U.S. grade.

(b) Monterey (Monterey Jack) cheese which does not comply with the provisions of the Federal Food, Drug, and Cosmetic Act shall not be assigned a U.S. grade.

(c) Monterey (Monterey Jack) produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment or facilities, or to be operating under unsanitary plant conditions shall not be assigned a U.S. grade.

EXPLANATION OF TERMS

§ 58.2471 Explanation of terms.

(a) *With respect to types of surface protection*—(1) *Paraffin.* Refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other suitable substance.

(2) *Rindless.* Cheese which has not formed a rind due to the impervious type of wrapper, covering, or container, enclosing the cheese, or by any other means of handling.

(b) *With respect to flavor*—(1) *Very slight.* Detected only upon very critical examination.

(2) *Slight.* Detected only upon critical examination.

(3) *Definite.* Not intense but detectable.

(4) *Pronounced.* So intense as to be easily identified.

(5) *Lacking in flavor development.* No undesirable and very little, if any, Monterey cheese flavor development.

(6) *Undesirable.* Those listed in excess of the intensity permitted or those not otherwise listed.

(7) *Feed.* Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in milk carried through into the cheese.

(8) *Acid.* Sharp and puckery to the taste, characteristic of lactic acid.

(9) *Flat.* Insipid, practically devoid of any characteristic Monterey cheese flavor.

(10) *Bitter.* Distasteful, resembling taste of quinine.

(11) *Fruity.* A sweet fruit-like flavor resembling mature apples.

(12) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of milking machines, utensils, or factory equipment.

(13) *Sour.* An acidly pungent flavor resembling vinegar.

(14) *Whey-taint.* A slightly acid flavor and odor characteristic of fermented whey caused by too slow or incomplete expulsion of whey from the curd.

(15) *Yeasty.* A flavor indicating yeasty fermentation.

(16) *Malty.* A distinctive, harsh flavor suggestive of malt.

(17) *Old milk.* Lacks freshness.

(18) *Weedy.* A flavor due to the use of milk which possesses a common weedy flavor.

(19) *Onion.* This flavor is recognized by the peculiar taste and aroma suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic, or leeks.

(20) *Barny.* A flavor characteristic of the odor of a poorly ventilated cow barn.

(21) *Lipase.* A flavor suggestive of rancidity or odor of butyric acid, sometimes associated with a bitterness.

(c) *With respect to body and texture*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Broken down.* Changed from a curdy or rubbery condition to a waxy condition or further to a mealy or pasty condition.

(6) *Firm.* Feels solid, not soft or weak.

(7) *Reasonably firm.* Somewhat less firm but not the extent of materially injuring the keeping quality of the cheese.

(8) *Curdy.* Smooth but firm; when worked between the fingers is rubbery and not waxy.

(9) *Coarse.* Feels rough, dry, and sandy.

(10) *Mechanical opening.* Mechanical openings that are irregular in shape and are caused by variations in make procedure and not gas fermentation.

(11) *Sweet holes.* Spherical gas holes, glossy in appearance; usually about the size of BB shots.

(12) *Short.* No elasticity to the plug and when rubbed between the thumb and fingers it tends toward mealiness.

(13) *Mealy.* Short body, does not mold well and looks and feels like corn meal when rubbed between the thumb and fingers.

(14) *Weak.* Requires little pressure to crush, is soft but is not necessarily sticky like a pasty cheese.

(15) *Pasty.* Weak body and when the cheese is rubbed between the thumb and fingers it becomes sticky and smeary.

(16) *Crumbly.* Loosely knit and tends to fall apart when rubbed between the thumb and fingers.

(17) *Gassy.* Gas holes of various sizes and may be scattered.

(18) *Slitty.* Narrow elongated slits generally associated with a cheese that is gassy or yeasty. Sometimes referred to as "fish-eyes."

(19) *Corky.* Hard, tough, over-firm cheese which does not readily break down when rubbed between the thumb and fingers.

(20) *Pinny.* Numerous very small gas holes.

(d) *With respect to color*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Uncolored.* Absence of added coloring.

(6) *Wavy.* Unevenness of color which appears as layers or waves.

(7) *Acid-cut.* Bleached or faded appearance which sometimes varies throughout the cheese, appearing most often around mechanical openings.

(8) *Unnatural.* Deep orange or reddish color.

(9) *Mottled.* Irregular shaped spots or blotches in which portions are light colored and others are of high color. Also an unevenness of color due to combining the curd from two different vats, sometimes referred to as "mixed curd."

(10) *Salt spots.* Large light colored spots or areas.

(11) *Dull or faded.* A color condition lacking in luster or translucency.

(12) *Bleached surface.* A faded color beginning at the surface and progressing inward.

(e) *With respect to finish and appearance*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Wax or paraffin that adheres firmly to the surface of the cheese.* Thin or thick coating with no indication of cracking, breaking, or loosening.

(6) *Rind.* Hard coating caused by the desiccation of the surface of the cheese.

(7) *Firm sound rind.* Possessing a firmness and thickness (not easily dented or damaged) consistent with the size of the cheese and which is dry, smooth, and closely knit, sufficient to protect the interior quality from external defects; free from checks, cracks, breaks, or soft spots.

(8) *Burst or torn bandage.* A severance of the bandage usually occurring at the side seam, or the bandage is otherwise snagged or broken.

(9) *Wrapper or covering.* Transparent or opaque material (plastic film type or foil) next to the surface of the cheese, used as an enclosure or covering of the cheese.

(10) *Adequately and securely envelop.* Wrapper or covering properly sealed, and entirely enclosing the cheese, with sufficient adherence to the surface to protect it from contamination and dehydration.

(11) *Smooth bright surface.* Clean, glossy surface.

(12) *Smooth surface.* Not rough or uneven.

(13) *Soiled surface.* Milkstone, rust spots, or other discoloration on the surface of the cheese.

(14) *Surface mold.* Mold on the paraffin or the exterior of the cheese.

(15) *Mold under bandage and paraffin.* Mold spots or areas that have formed under the paraffin or mold that has penetrated from the surface and continued to develop.

(16) *Mold under wrapper or covering.* Mold spots or areas that have formed under the wrapper or on the cheese.

(17) *Rough surface.* Lacks smoothness.

(18) *Bandage evenly placed.* Overlapping the edges evenly about 1 inch.

(19) *Irregular bandaging.* Bandage improperly placed in the hoop resulting in too much bandage on one end and insufficient on the other causing overlapping; wrinkled and loose fitting.

(20) *Lopsided.* One side of the cheese is higher than the other side.

(21) *High edge.* A rim or ridge on the follower side of the cheese, which is raised in varying degrees. In extreme cases it may bend over.

(22) *Defective coating.* Brittle coating of paraffin that breaks and peels off in the form of scales or flakes; flat or raised blisters or bubbles under the surface of the paraffin; checked paraffin, including cracks, breaks, or hairline checks in the paraffin or coating of the cheese.

(23) *Checked rind.* Numerous small cracks or breaks in the rind, sometimes following the outline of curd particles, sometimes referred to as "curd openings."

(24) *Huffed.* Swollen because of gas fermentation. The cheese becomes rounded or oval in shape instead of being flat.

(25) *Weak rind.* Thin and possessing little or no resistance to pressure.

(26) *Sour rind.* A fermented rind condition, usually confined to the faces of the cheese.

Done at Washington, D.C., this 29th day of November 1972 to become effective January 15, 1973.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-20829 Filed 12-6-72;8:45 am]

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED DAIRY PLANTS AND STANDARDS FOR GRADES OF DAIRY PLANTS

Subpart J—U.S. Standards for Grades of Colby Cheese

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Statement of Consideration. For several years the Department has received requests for official grading service on Colby cheese. In addition a cheese manufacturer and two State Departments of Agriculture in major cheese producing States have indicated an interest in a U.S. grade standard. The standards being promulgated identify the various quality characteristics that will be used in the three grades within the standard.

In response to the notice of the proposed rule making, the Hearing Clerk received three comments. Two of the comments were favorable to the establishment of this standard. The other comment questioned the need for a U.S. grade standard for Colby cheese.

Therefore, U.S. Standards for grades of Colby cheese are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

The standards are as follows:

Subpart J—U.S. Standards for Grades of Colby Cheese

DEFINITIONS

AUTHORITY: The provisions of this Subpart J issued under secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627.

DEFINITIONS

§ 58.2475 Colby cheese.

"Colby cheese" is cheese made by the Colby process or by any other procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced by the Colby process. The physical attributes of Colby cheese are as follows: Uncolored to orange in color; a mild to mellow flavor similar to mild Cheddar cheese; softer bodied and more open textured than Cheddar. The cheese is made from cow's milk with or without the addition of coloring matter. It contains added common salt, contains not more than 40 percent of moisture, and in the water-free substance contains not less than 50 percent of milk fat, and conforms to the provisions of § 19.510 or § 19.512 as applicable, "Definitions and Standards of Identity for Cheese and Cheese products." Food and Drug Administration (21 CFR Part 19).

§ 58.2476 Types of surface protection.

The following are the types of surface protection for Colby cheese:

(a) *Bandaged and paraffin-dipped.* The cheese is bandaged and dipped in a refined paraffin, amorphous wax, microcrystalline wax, or any combination of such, or any other suitable substance. Such coating is a continuous, unbroken, and uniform film adhering tightly to the entire surface of the cheese.

(b) *Rindless.* The cheese is properly wrapped in a wrapper or covering, or by any other protective covering, which will not impart any color or objectionable odor or flavor to the cheese. The wrapper or covering is sealed with a sufficient overlap or satisfactory closure to prevent air leakage. The wrapper or covering is of sufficiently low permeability to water vapor and air so as to prevent the formation of rind and prevent the entrance of air during the curing and holding periods.

U.S. GRADES

§ 58.2477 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows: (a) U.S. Grade AA; (b) U.S. Grade A; (c) U.S. Grade B.

§ 58.2478 Basis for determination of U.S. grades.

The determination of U.S. grades of Colby cheese shall be on the basis of rating the following quality factors: (a) Flavor, (b) body and texture, (c) color, (d) finish and appearance. The rating of each quality factor shall be established on the basis of characteristics present in any vat of cheese. The cheese shall be graded no sooner than 10 days of age. The cheese shall be held at no lower than 35° F. during this period. The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.

§ 58.2479 Specifications for U.S. grades of Colby cheese.

The general requirements for the U.S. grades of Colby cheese are as follows:

(a) *U.S. Grade AA.* U.S. Grade AA Colby cheese shall conform to the following requirements.

(1) *Flavor.* Is fine and highly pleasing, free from undesirable flavors and odors. May be lacking in flavor development or may possess a characteristic Colby cheese flavor. May possess a very slight acid or feed flavor, but shall be free from any undesirable flavors and odors. See Table I.

(2) *Body and texture.* A plug drawn from the cheese shall be firm. It shall have numerous small mechanical openings evenly distributed throughout the plug. It shall be relatively free from blind areas. It shall not possess sweet holes, yeast holes, or other gas holes. The texture may be definitely curdy or may be partially broken down if more than 3 weeks old. See Table II.

(3) *Color.* Shall have a uniform, bright attractive appearance. May be colored or uncolored but the color shall be uniform. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm and smooth providing a good protection to the cheese. The bandage shall be evenly placed on the end and over the entire surface of the cheese, free from unnecessary overlapping and wrinkles, and not burst or torn. The cheese surface shall be smooth, bright, and have a good coating of paraffin or wax that adheres firmly to the entire surface of the cheese. The cheese shall be free from mold under the bandage and paraffin. The cheese shall be free from high edges, huffing, and lopsidedness, but may possess soiled surface to a very slight degree. See Table IV.

(ii) *Rindless.* The wrapper or covering shall be practically smooth and properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering

shall be neat, and adequately and securely envelop the cheese but may be slightly wrinkled. Allowance should be made for wrinkles caused by crimping or sealing when vacuum packaging is used. The cheese shall be free from mold under the wrapper or covering and shall not be huffed or lopsided. See Table IV.

(b) *U.S. Grade A.* U.S. Grade A Colby cheese shall conform to the following requirements.

(1) *Flavor.* Is pleasing and free from undesirable flavors and odors. May be lacking in flavor development or may possess slight characteristic Colby cheese flavor. May possess a very slight bitter flavor, slight acid, or feed flavors but shall not possess undesirable flavors and odors. See Table I.

(2) *Body and texture.* A plug drawn from the cheese shall be reasonably firm. It shall have numerous mechanical openings but the openings shall not be large and connecting. It shall not possess more than two sweet holes per plug, and the plug shall be free from other gas holes. The body may be very slightly loosely knit and definitely curdy or partially broken down if more than 3 weeks old. See Table II.

(3) *Color.* Shall have a fairly uniform, bright attractive appearance. May be colored or uncolored but the color shall be uniform. Very slight waviness is permitted. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be sound, firm, and smooth, providing a good protection to the cheese. The bandage may be slightly uneven, overlapped or wrinkled but not burst or torn. The surface shall be practically smooth, bright and have a good coating of paraffin or wax that adheres firmly to all surfaces of the cheese. The cheese shall be free from mold under the bandage. May possess the following characteristics to a very slight degree: Soiled surface and surface mold; and to a slight degree: Rough surface, irregular bandaging, lopsided and high edges. See Table IV.

(ii) *Rindless.* The wrapper or covering shall be practically smooth, properly sealed with adequate overlapping at the seams or sealed by any other satisfactory type of closure. The wrapper or covering shall be neat and shall adequately and securely envelop the cheese. It may be slightly wrinkled but shall be of such character as to fully protect the surface of the cheese and not detract from its initial quality. The cheese shall be free from mold under the wrapper or covering and shall not be huffed but may be slightly lopsided. See Table IV.

(c) *U.S. Grade B.* U.S. Grade B Colby cheese shall conform to the following requirements.

(1) *Flavor.* Should possess a fairly pleasing characteristic Colby cheese flavor, but may possess very slight onion and the following flavors to a slight degree: Flat, bitter, fruity, utensil, whey-taint, yeasty, malty, old milk, weedy, barny and lipase; and the following to a definite degree: Acid and feed flavor. See Table I.

(2) *Body and texture.* A plug drawn from the cheese may be loosely knit and open and may have numerous sweet holes, scattered yeast holes and other scattered gas holes; and may possess various other body defects. Pinny gas holes are not permitted. A plug drawn from the cheese may possess the following characteristics to a slight degree: Coarse, short, mealy, weak, pasty, crumbly, gassy, slitty, corky and loosely knit; the following to a definite degree: Curdy, and sweet holes. See Table II.

(3) *Color.* May possess the following characteristics to a slight degree: Wavy, mottled, salt spots, dull or faded. May be colored or uncolored, and color may be slightly unnatural. In addition, rindless Colby cheese may have a bleached surface to a slight degree. See Table III.

(4) *Finish and appearance*—(i) *Bandaged and paraffin-dipped.* The rind shall be reasonably sound, may be slightly weak, but free from soft spots, rind rot, cracks and openings of any kind. The bandage may be uneven and wrinkled but not burst or torn. The surface may be rough and unattractive but shall possess a fairly good coating of paraffin or wax. The paraffin may be scaly or blistered, with very slight mold under the bandage or paraffin but there shall be no indication that mold has entered the cheese. May possess the following characteristics to a slight degree: Soiled surface, surface mold, defective coating, checked rind, weak rind, and sour rind; and the following to a definite degree: Rough surface, irregular bandaging, lopsided and high edges. See Table IV.

(ii) *Rindless.* The wrapper or covering shall be unbroken but may be definitely wrinkled. The wrapper or covering shall adequately and securely envelop the cheese. The following characteristics may be present to a very slight degree: Mold under the wrapper but not entering the cheese; to a slight degree: Soiled surface, surface mold, lopsided; and the following to a definite degree: Rough surface and wrinkled wrapper or cover. See Table IV.

TABLE I.—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	AA	A	B
Feed	VS	S	D
Acid	VS	S	D
Flat			S
Bitter		VS	S
Fruity			S
Utensil			S
Whey-Taint			S
Yeasty			S
Malty			S
Old Milk			S
Weedy			S
Onion			VS
Barny			S
Lipase			S

VS—Very Slight, S—Slight, D—Definite; P—Pronounced.

TABLE II—CLASSIFICATION OF BODY AND TEXTURE

Identification of body and texture characteristics	AA	A	B
Curdy	D	D	D
Coarse			S
Sweet holes	S		D
Short			S
Mealy			S
Weak			S
Pasty			S
Crumbly			S
Gassy			S
Slitty			S
Corky			S
Loosely knit		VS	S

VS—Very Slight S—Slight D—Definite P—Pronounced

TABLE III—CLASSIFICATION OF COLOR

Identification of color characteristics	AA	A	B
Wavy		VS	S
Unnatural			S
Mottled			S
Salt spots			S
Dull or faded			S
Bleached surface (rindless)			S

VS—Very Slight S—Slight D—Definite P—Pronounced.

TABLE IV—CLASSIFICATION OF FINISH AND APPEARANCE

Identification of finish and appearance characteristics	AA	A	B
Soiled surface	VS	VS	S
Surface mold		VS	S
Mold under bandage and paraffin			VS
Mold under wrapper or covering (rindless)			VS
Rough surface		S	D
Irregular bandaging (uneven, wrinkled and overlapping)		S	D
Lopsided		S	D
Lopsided (rindless)		S	S
High edges		S	D
Defective coating (scaly, blistered, and checked)			S
Checked rind			S
Weak rind			S
Sour rind			S
Wrinkled wrapper or cover (rindless)	S	S	D

VS—Very Slight S—Slight D—Definite P—Pronounced.

§ 58.2480 U.S. grade not assignable.

(a) Colby cheese which fails to meet the requirements for U.S. Grade B or higher shall not be given a U.S. grade.

(b) Colby cheese which does not comply with the provisions of the Federal Food, Drug, and Cosmetic Act shall not be assigned a U.S. grade.

(c) Colby cheese produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment or facilities, or to be operating under unsanitary plant conditions shall not be assigned a U.S. grade.

EXPLANATION OF TERMS

§ 58.2481 Explanation of terms.

(a) *With respect to types of surface protection*—(1) *Paraffin.* Refined paraffin, amorphous wax, microcrystalline wax, or any combination of such or any other suitable substance.

(2) *Rindless.* Cheese which has not formed a rind due to the impervious type

of wrapper, covering, or container, enclosing the cheese, or by any other means of handling.

(b) *With respect to flavor*—(1) *Very slight.* Detected only upon very critical examination.

(2) *Slight.* Detected only upon critical examination.

(3) *Definite.* Not intense but detectable.

(4) *Pronounced.* So intense as to be easily identified.

(5) *Lacking in flavor development.* No undesirable and very little, if any, Colby cheese flavor development.

(6) *Undesirable.* Those listed in excess of the intensity permitted or those not otherwise listed.

(7) *Feed.* Feed flavors (such as alfalfa, sweetclover, silage, or similar feed) in milk carried through into the cheese.

(8) *Acid.* Sharp and puckery to the taste, characteristic of lactic acid.

(9) *Flat.* Insipid, practically devoid of any characteristic Colby cheese flavor.

(10) *Bitter.* Distasteful, resembling taste of quinine.

(11) *Fruity.* A sweet fruitlike flavor resembling mature apples.

(12) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of milking machines, utensils, or factory equipment.

(13) *Whey-taint.* A slightly acid flavor and odor characteristic of fermented whey caused by too slow or incomplete expulsion of whey from the curd.

(14) *Yeasty.* A flavor indicating yeasty fermentation.

(15) *Malty.* A distinctive, harsh flavor suggestive of malt.

(16) *Old milk.* Lacks freshness.

(17) *Weedy.* A flavor due to the use of milk which possesses a common weedy flavor.

(18) *Onion.* A flavor recognized by the peculiar taste and aroma suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic or leeks.

(19) *Barny.* A flavor characteristic of the odor of a poorly ventilated cow barn.

(20) *Lipase.* A flavor suggestive of rancidity or the odor of butyric acid, sometimes associated with a bitterness.

(c) *With respect to body and texture*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Blind.* Lacking small mechanical openings characteristic of Colby cheese.

(6) *Firm.* Feels solid, not soft or weak.

(7) *Reasonably firm.* Somewhat less firm but not to the extent of being weak.

(8) *Curdy.* Firm when worked between the fingers, rubbery and not waxy.

(9) *Coarse.* Feels rough, dry, and sandy.

(10) *Mechanical openings.* Mechanical openings that are irregular in shape and are caused by variations in make procedure and not gas fermentation.

(11) *Sweet holes.* Spherical gas holes, glossy in appearance; usually about the size of BB shots.

(12) *Short.* No elasticity to the plug and when rubbed between the thumb and fingers it tends toward mealiness.

(13) *Mealy.* Short body, does not mold well and looks and feels like corn meal when rubbed between the thumb and fingers.

(14) *Weak.* Requires little pressure to crush, is soft but is not necessarily sticky like a pasty cheese.

(15) *Pasty.* Weak body and when the cheese is rubbed between the thumb and fingers it becomes sticky and smeary.

(16) *Crumbly.* Loosely knit and tends to fall apart when rubbed between the thumb and fingers.

(17) *Gassy.* Gas holes of various sizes and may be scattered.

(18) *Slitty.* Narrow elongated slits generally associated with a cheese that is gassy or yeasty. Sometimes referred to as "fish-eyes."

(19) *Corky.* Hard, tough, overfirm cheese which does not readily break down when rubbed between the thumb and fingers.

(20) *Pinny.* Numerous very small gas holes.

(21) *Broken down.* Changed from a curdy or rubbery condition to a waxy condition or further to a mealy or pasty condition.

(d) *With respect to color*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present only to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Markedly identifiable and present to a large degree.

(5) *Uncolored.* Absence of added coloring.

(6) *Wavy.* Unevenness of color which appears as layers or waves.

(7) *Unnatural.* Deep orange or reddish color.

(8) *Mottled.* Irregular shaped spots or blotches in which portions are light colored and others are of higher color. Also an unevenness of color due to combining the curd from two different vats, sometimes referred to as "mixed cured."

(9) *Salt spots.* Large light colored spots or areas.

(10) *Dull or faded.* A color condition lacking in lustre or translucency.

(11) *Bleached surface.* A faded color beginning at the surface and progressing inward.

(e) *With respect to finish and appearance*—(1) *Very slight.* Detected only upon very critical examination and present only to a minute degree.

(2) *Slight.* Barely identifiable and present to a small degree.

(3) *Definite.* Readily identifiable and present to a substantial degree.

(4) *Pronounced.* Marked identifiable and present to a large degree.

(5) *Wax or paraffin that adheres firmly to the surface of the cheese.* Thin or thick coating with no indication of cracking, breaking, or loosening.

(6) *Rind.* Hard coating caused by the dehydration of the surface of the cheese.

(7) *Firm sound rind.* Possessing a firmness and thickness (not easily dented or damaged) consistent with the size of the cheese and which is dry, smooth, and closely knit, sufficient to protect the interior quality from external defects; free from checks, cracks, breaks, or soft spots.

(8) *Burst or torn bandage.* A severance of the bandage usually occurring at the side seam, or the bandage is otherwise snagged or broken.

(9) *Wrapper or covering.* Transparent or opaque material (plastic film type or foil) next to the surface of the cheese, used as an enclosure or covering of the cheese.

(10) *Adequately and securely enveloped.* Wrapper or covering properly sealed, and entirely enclosing the cheese, with sufficient adherence to the surface to protect it from contamination and dehydration.

(11) *Smooth bright surface.* Clean, glossy surface.

(12) *Smooth surface.* Not rough or uneven.

(13) *Soiled surface.* Milkstone, rust spots, or other discoloration on the surface of the cheese.

(14) *Surface mold.* Mold on the paraffin or the exterior of the cheese.

(15) *Mold under bandage and paraffin.* Mold spots on areas that have formed under the paraffin or mold that has penetrated from the surface and continued to develop.

(16) *Mold under wrapper or covering.* Mold spots or areas that have formed under the wrapper or on the cheese.

(17) *Rough surface.* Lacks smoothness.

(18) *Bandage evenly placed.* Overlapping the edges evenly about one inch.

(19) *Irregular bandaging.* Bandage improperly placed in the hoop resulting in too much bandage on one end and insufficient on the other causing overlapping; wrinkled and loose fitting.

(20) *Lopsided.* One side of the cheese is higher than the other side.

(21) *High edge.* A rim or ridge on the follower side of the cheese, which is raised in varying degrees. In extreme cases it may bend over.

(22) *Defective coating.* Brittle coating of paraffin that breaks and peels off in the form of scales or flakes; flat or raised blisters or bubbles under the surface of the paraffin; check paraffin, including cracks, breaks or hairline checks in the paraffin or coating of the cheese.

(23) *Checked rind.* Numerous small cracks or breaks in the rind, sometimes following the outline of curd particles, sometimes referred to as "curd openings."

(24) *Huffed.* Swollen because of gas fermentation. The cheese becomes rounded or oval in shape instead of being flat.

(25) *Weak rind.* Thin and possessing little or no resistance to pressure.

(26) *Sour rind.* A fermented rind condition, usually confined to the faces of the cheese.

Done at Washington, D.C., this 29th day of November 1972 to become effective January 15, 1973.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-20828 Filed 12-6-72;8:45 am]

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

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Nursery Stock, Plants, and Seeds

LIST OF PORTS AT WHICH INSPECTORS ARE LOCATED

Pursuant to the authority conferred by sections 1, 5, and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 154, 159, 162), § 319.37-25 of the regulations relating to the importation of nursery stock, plants, and seeds (7 CFR 319.37-25) is hereby amended to read as follows:

§ 319.37-25 Appendix A: List of ports at which inspectors are located.

Ports with special inspection and treating facilities are indicated by an asterisk (*).

Alabama: Mobile—147 Federal Building, St. Louis and St. Joseph Streets.
Alaska: Anchorage—International Airport.
Arizona: *Nogales—202 Federal Inspection Building, 100 Terrace Avenue.
Phoenix—Sky Harbor Airport, International Wing, 3300 Sky Harbor Boulevard.
San Luis—U.S. Border Inspection Station.
Tucson—International Airport.
California: Calexico—203 Federal Inspection Building.
Los Angeles—2522 U.S. Custom House, 300 South Ferry Street, San Pedro.
*San Diego—112 Martin Building, 2760 Fifth Avenue.
*San Francisco—101 Agriculture Building, Embarcadero and Mission Streets, Travis Air Force Base.
Connecticut: Windsor Locks—Bradley Field International Airport.
Delaware: Dover Air Force Base.
Wilmington—203 U.S. Custom House, Sixth and King Streets.
District of Columbia: *Washington—Plant Inspection Station, 1127 Auditors Building, 14th Street and Independence Avenue SW.
Florida: Jacksonville—Federal Office Building, 400 West Bay Street.
Key West—301 Simonton Street.
*Miami—1522 Federal Office Building, 51 SW. First Avenue.
Pensacola—312 U.S. Post Office, 100 North Palafox Street.
Port Canaveral—Canaveral Port Authority Building, SE. Room, Avenue B and Second Street.
Port Everglades—305 Amman Building, Eisenhower Boulevard, Fort Lauderdale.
Tampa—436 Federal Office Building, 500 Zack Street, West Palm Beach—149 East Port Road, Riviera Beach.
Georgia: Atlanta—U.S. Custom House, 699 Piedmont Avenue NE.
Savannah—223 U.S. Court House and Federal Building, 125-129 Bull Street.
Hawaii: Hilo—General Lyman Field.
Honolulu—3179 Koapaka Street.
Illinois: Chicago—800 U.S. Custom House, 610 South Canal Street.
Louisiana: Baton Rouge—116 Federal Building, and U.S. Court House, 707 Florida Boulevard.
*New Orleans—207 Custom House Building, 423 Canal Street.
Maine: Bangor—International Airport, International Arrivals Building.
Portland—301 U.S. Courthouse, 156 Federal Street.
Maryland: Andrews Air Force Base.
Baltimore—506 Appraisers Stores Building, 103 South Gay Street.
Massachusetts: Boston—710 U.S. Appraisers Stores, 408 Atlantic Avenue.
Michigan: Detroit—924 Federal Building, 231 West Lafayette Street.
Minnesota: Duluth—420 Board of Trade Building, 301 West First Street.
St. Paul—1416 Post Office and Customs Building, 180 East Kellogg Boulevard.
New Jersey: *Hoboken—Plant Importations Branch, 209 River Street.
McGuire AFB, Passenger Terminal, Customs Area.
New York: Buffalo—1113 Federal Building, 111 West Huron Street.
*Jamaica—John F. Kennedy International Airport.
New York—1747 Federal Building, 26 Federal Plaza.
Ogdensburg—208 Post Office Building, State Street.
Rouses Point—118 St. John's Highway Border Inspection Station, Route 9B.
North Carolina: Morehead City—N.C. Port Authority Pier Office Building (Terminal).
Wilmington—202 Federal Building, Princess and Water Streets.
Ohio: Cleveland—1749 New Federal Building, 1240 East Ninth Street.
Toledo—119 U.S. Courthouse and Custom House, 1732 Spielbusch Avenue.
Oregon: Astoria—Port Docks.
Coos Bay—U.S. Postal Services Building, 235 West Anderson Street.
Portland—657 Federal Building, 511 NW., Broadway.
Pennsylvania: Philadelphia—1007 U.S. Custom House, Second and Chestnut Streets.
Puerto Rico: Ramey Air Force Base—405 USDA and U.S. Customs Office Building, Corner Hangar Road and NE. Road.
Roosevelt Roads NAS—Air Operations Building.
*San Juan—4 Post Office Building, Comercio Street.
Rhode Island: Warwick—325 W. Shore Road, Suite 8.
South Carolina: Charleston—219 Custom House, Market and E. Bay Streets.
Tennessee: Memphis—448 Federal Office Building, 167 North Main Street.
Texas: *Brownsville—216 Border Services Building, East Elizabeth and International Boulevard.
Corpus Christi—420 Taylor Street, Rooms 117, 118.
Dallas—Federal Office Building, and Courthouse, Room 2-B-34, 1100 Commerce Street.
Del Rio—135 U.S. Border Inspection Station, International Bridge.
Eagle Pass—101 U.S. Border Inspection Station, Garrison and Commercial Streets.
*El Paso—Cordova Border Station, Room 172-A, 3600 East Paisano.
Galveston—U.S. Custom House Building, Room 217-A, 18th and Strand Streets.
Hidalgo—U.S. Border Inspection Station Building, International Bridge.
Houston—210 U.S. Appraisers Stores Building, 7300 Wingate Street.
*Laredo—Motor Hotel Annex, Rooms L8-13, 1000 Zaragoza.
Port Arthur—201 Federal Building, Austin Avenue and Fifth Street.
Presidio—U.S. Border Inspection Station, International Bridge.
Progreso—Custom House Building, International Bridge.
Roma—Starr County Bridge Co. Building, International Bridge.
San Antonio—International Satellite Building, Room 15-S, 9700 Airport Boulevard.
Virgin Islands of the U.S.: St. Croix—Alexander Hamilton Airport, Terminal Building, Christiansted.
St. Thomas—202 U.S. Post Office Building, Charlotte Amalie.
Virginia: Dulles International Airport, International Arrivals Area, Chantilly.
Newport News—6 Post Office Building.
Norfolk—209 U.S. Custom House, 101 East Main Street.
Washington: Blaine—216 Custom House.
McChord Air Force Base—MAC Terminal.
*Seattle—9014 Federal Office Building.
Wisconsin: Milwaukee—306 U.S. Custom House, 628 East Michigan Street.

(Secs. 1, 5, 9, 37 Stat. 315-318; 7 U.S.C. 154, 159, 162; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530; 37 F.R. 6327, 6505)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (12-7-72).

The purpose of this amendment is to revise the list of ports at which plant quarantine inspectors are stationed to show currently existing facilities. It is to the benefit of the public that this list be published at the earliest practicable date. Accordingly, pursuant to the provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on the amendment are unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of December, 1972.

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

[FR Doc.72-21005 Filed 12-6-72;8:48 am]

PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

Subpart—European Crane Fly

TERMINATION OF NOTICE OF EXISTENCE OF EMERGENCY AND RELATED REGULATIONS

The notice of existence of emergency and regulations related thereto with respect to the European crane fly, in 7 CFR 331.1, are hereby terminated effective December 7, 1972. However, such provisions shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to said date.

A staff review revealed that the European crane fly is an insect which has requirements for moist conditions during critical periods of its life cycle which

make its potential of spread and establishment very limited. The pest has also been determined to be of minor significance in the area in which it occurs in the United States. After the staff review and discussions with the National Plant Board Advisory Council, and in view of the fact that other programs have higher priority, it was decided the European crane fly regulations should be terminated. Accordingly, the European crane fly notice of existence of emergency and regulations related thereto are terminated.

This action relieves restrictions and it does not appear that public participation in rulemaking procedures concerning this action would make additional relevant information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public participation with respect to this action is impracticable and unnecessary, and this action may be made effective less than 30 days after publication hereof in the FEDERAL REGISTER.

(Sec. 105, 71 Stat. 32, sec. 106, 71 Stat. 33, sec. 107, 71 Stat. 34; 7 U.S.C. 150dd, 150ee, 150ff; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

This action shall become effective December 7, 1972.

Done at Washington, D.C., this 1st day of December 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-21063 Filed 12-6-72;8:52 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAMS

[Amdt. 4]

PART 701—NATIONAL RURAL ENVIRONMENTAL ASSISTANCE PROGRAM FOR 1971 AND SUBSEQUENT YEARS

Miscellaneous Amendment

This amendment is issued pursuant to the authority in the Soil Conservation and Domestic Allotment Act, as amended. The principal purpose of the amendment is to make changes for 1973 in the list of eligible practices to be performed under the Rural Environmental Assistance Program so as to place continued emphasis on measures which will result in public and communitywide benefits and for the reduction of agriculture-related pollution problems, and long-range protection and enhancement of soil, water, woodland, and wildlife resources. The changes are as follows:

1. The addition of the allocation of funds among the States for 1973.

2. The combination of practices serving comparable purposes.

3. Deletion of practice A–3 (Vegetative cover in crop rotation) because of its production-related aspects.

4. The revision of practice C–5 (Diversions to include title as an eligible measure to divert internal water that seeps to the surface and causes land or conservation cover to lose its stability.

5. Deletion from practice C–8 (Streambank or shore protection) of wording limiting its applicability to pooling agreements and special projects, in order to permit use of the practice in solving streambank stabilization problems that are entirely on one farm.

6. Deletion of practices E–1 (Stubble mulching) and E–2 (Contour farming) due to their limited use.

7. Deletion of practice F–1 (Special conservation practices) since there is no longer need for this authority.

8. Development of a revised wildlife practice G–1 (Permanent wildlife habitat) in order to give the practice high priority as an enduring-type practice, and the addition of practice G–5 (Wildlife food plots) to provide a separate lower priority practice covering the planting of food plots that do not qualify as permanent wildlife habitat.

9. Addition of practice J–4 (Excess water management systems) for use in preventing or abating a water, air, or land pollution problem on land where a salinity problem exists, or where a water table problem exists that needs to be corrected in order that sewage systems in the area may function properly.

10. Addition of practice J–5 (Demonstrating conservation tillage systems) for use in demonstrating conservation tillage systems which will prevent or reduce pollution of water, air, or land from sediment and chemically contaminated runoff.

11. Minor technical changes in the administration of the program.

The regulations governing the National Rural Environmental Assistance Program for 1971 and subsequent years, 36 F.R. 18289, 37 F.R. 2833, 37 F.R. 16787, 37 F.R. 16861, are hereby amended effective with respect to the 1973 program year as follows:

1. The title of § 701.75 is deleted from the table of contents and the word "Reserved" substituted in lieu thereof.

2. Section 701.1 is amended to revise paragraph (a) to read as follows:

§ 701.1 Introduction.

(a) Through the rural environmental assistance program for 1971 and subsequent years (referred to in this part as the "program") administered by the Department of Agriculture, the Federal Government will share with farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands the cost of carrying out: (1) Approved soil- and water-conservation practices, including related wildlife conservation practices, and (2) approved pollution abatement practices, in accordance with the provisions of this part and such modifications thereof as may hereafter be made.

* * * * *

3. Section 701.4 is amended by adding a new paragraph (e) to read as follows:

§ 701.4 State funds.

* * * * *

(e) The allocation of funds among the States for 1973 is as follows:

Alabama	$3,516,000
Alaska	85,000
Arizona	1,150,000
Arkansas	3,013,000
California	3,687,000
Colorado	2,813,000
Connecticut	275,000
Delaware	186,000
Florida	2,495,000
Georgia	4,225,000
Hawaii	204,000
Idaho	1,608,000
Illinois	5,065,000
Indiana	3,369,000
Iowa	5,586,000
Kansas	4,532,000
Kentucky	4,099,000
Louisiana	2,755,000
Maine	940,000
Maryland	808,000
Massachusetts	322,000
Michigan	3,033,000
Minnesota	4,416,000
Mississippi	3,789,000
Missouri	5,331,000
Montana	3,607,000
Nebraska	3,706,000
Nevada	505,000
New Hampshire	328,000
New Jersey	442,000
New Mexico	1,590,000
New York	3,172,000
North Carolina	3,780,000
North Dakota	3,637,000
Ohio	3,502,000
Oklahoma	4,200,000
Oregon	2,036,000
Pennsylvania	2,926,000
Puerto Rico	497,000
Rhode Island	46,000
South Carolina	2,150,000
South Dakota	2,852,000
Tennessee	3,264,000
Texas	12,380,000
Utah	1,032,000
Vermont	638,000
Virginia	2,619,000
Virgin Islands	11,000
Washington	2,220,000
West Virginia	1,043,000
Wisconsin	3,614,000
Wyoming	1,401,000
Total	134,500,000

4. Section 701.14 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 701.14 Responsibility for technical phases of practices.

* * * * *

(b) The Forest Service is responsible for the technical phases of practices A–7 (for plantings primarily for the production of forest products), B–7 (for water impoundment reservoirs for forest protection), and B–10 (§§ 701.71(c), 701.72(c), and 701.72(d)). * * *

5. Section 701.15 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 701.15 Rates of cost sharing.

(a) * * * Rates of cost sharing shall not be in excess of 50 percent of the average cost (30 percent of the average cost for practices C–12 and D–1

(§§ 701.73(d) and 701.74) and 80 percent of the average cost for practices A–7, B–10, F–3, and F–4 (§§ 701.71(c), 701.72(d), 701.76(b), and 701.76(c)) of performing the practices, except that higher rates of cost sharing may be approved by the Director, Conservation and Land Use Programs Division, ASCS, for high priority practices which have enduring conservation and pollution abatement benefits.

* * * * *

§ 701.22 [Amended]

6. Section 701.22 is amended by changing the references to "§ 701.76 (c) and (d)" in the first sentence to "§ 701.76 (b) and (c)".

§ 701.27 [Amended]

7. Section 701.27 is amended by changing the reference to "§ 701.71(d)" in paragraph (a) to "§ 701.71(c)".

§ 701.45 [Amended]

8. Section 701.45 is amended by changing the reference to "§ 701.76(d)" in the first sentence to "§ 701.76(c)".

§ 701.46 [Amended]

9. Section 701.46 is amended by changing the reference to "§ 701.76(d)" in paragraph (a) to "§ 701.76(c)".

§ 701.71 [Amended]

10. Section 701.71 is amended by deleting paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

11. Section 701.73 is amended by revising paragraphs (b) and (c) to read as follows:

§ 701.73 Practices primarily for the conservation and disposal of water.

* * * * *

(b) *Practice C–5.* Constructing diversion terraces, ditches, dikes, or installing tile to intercept runoff and divert excess water to protected outlets, protect soil from erosion, and prevent or reduce pollution of water, air, or land.

(c) *Practice C–8.* Streambank or shore protection measures to protect farmland from erosion or flood damage and to prevent or reduce the pollution of water, land, or air.

* * * * *

§ 701.75 [Amended]

12. Section 701.75 is amended by deleting the text and substituting the word "Reserved" in lieu thereof.

§ 701.76 [Amended]

13. Section 701.76 is amended by deleting paragraph (a), redesignating paragraphs (b), (c), and (d) as (a), (b), and (c), respectively, and changing the title of paragraph (a) as redesignated to "Practice F–2: Special Conservation Practices."

14. Section 701.77 is amended by revising paragraph (a) and by adding paragraph (d) to read as follows:

§ 701.77 Wildlife conservation practices with soil and water conservation benefits.

(a) *Practice G–1.* Establishing vegatative cover to provide enduring wildlife habitat or cover.

* * * * *

(d) *Practice G–5.* Establishing vegetative cover to provide wildlife food plots.

15. Section 701.79 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 701.79 Practices primarily for control of sediment and chemically contaminated runoff to prevent or reduce pollution of water, land, or air.

* * * * *

(c) *Practice J–4.* Installing underground and surface water management systems to dispose safely of excess runoff to abate pollution of water, land, or air and to provide environmental benefits.

(d) *Practice J–5.* Demonstrating conservation tillage systems of farming to prevent or reduce pollution of water, land, or air from sediment and chemically contaminated runoff where there are soil or water conservation benefits.

16. Section 701.82 is revised to read as follows:

§ 701.82 Other pollution abatement practices.

(a) *Practice M.* Other pollution abatement practices. Consistent with the goals and objectives set forth in § 701.2, the Director, Conservation and Land Use Programs Division, ASCS, may approve other pollution abatement practices for inclusion in the State program, upon recommendation of the State program development group; or for inclusion in county programs, upon recommendation of the State and county program development groups.

(Sec. 4, 49 Stat. 164, 16 U.S.C. 590d)

Effective date. Since farmers are now completing their plans for the 1973 program year, it is essential that the foregoing amendment be made effective as soon as possible. It is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, this amendment shall become effective upon publication in the FEDERAL REGISTER (12–7–72).

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

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–21061 Filed 12–6–72;8:53 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

[Docket No. SH–306]

PART 873—SUGARCANE; FLORIDA

Fair and Reasonable Prices for 1972–Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and due consideration of the evidence presented at the public hearing held in Belle Glade, Fla., on June 16, 1972, the following determination is hereby issued.

The regulations previously appearing in these sections under "Determination of Prices; Sugarcane; Florida" remain in full force and effect as to the crops to which they were applicable.

Sec.
873.31 General requirements.
873.32 Definitions.
873.33 Basic price.
873.34 Conversion of net sugarcane to standard sugarcane.
873.35 Molasses payment.
873.36 Other related specifications.
873.37 Toll agreements.
873.38 Applicability.
873.39 Subterfuge.
873.40 Processor mill procedures and checking compliance.

AUTHORITY: The provisions of §§ 873.31 to 873.40 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 873.31 General requirements.

A producer of sugarcane in Florida who is also a processor of sugarcane, to which this part applies as provided in § 873.38 (herein referred to as "processor"), shall have paid or contracted to pay for sugarcane of the 1972 crop grown by other producers and processed by him, or shall have processed sugarcane of other processors under a toll agreement, in accordance with the following requirements.

§ 873.32 Definitions.

For the purpose of this part, the term:

(a) "Price of raw sugar" means the daily spot quotation of raw sugar of the New York Coffee and Sugar Exchange No. 10 domestic contract, except that if the Director of the Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, determines that such price does not reflect the true market value of raw sugar, because of inadequate volume or other factors, he may designate the price to be effective under this part which he determines will reflect the true market value of raw sugar.

(b) "Season's average price of raw sugar" means (1) the weighted average price of raw sugar for the months in

which 1972-crop sugar is delivered to the purchaser, determined by weighting the simple average of the daily prices of raw sugar for each month in which sugar is delivered to the purchaser by the quantity of 1972-crop raw sugar or raw sugar equivalent delivered during each corresponding month, or (2) the average price of raw sugar received by a processor who disposes of all of his sugar under a single contract with a refiner or a cooperative sales organization composed of processors.

(c) "Raw sugar" means raw sugar, 96° basis.

(d) "Net sugarcane" means the gross weight of sugarcane delivered by a producer to a processor minus a deduction equal to the average percentage weight of trash delivered with all sugarcane ground at each mill operated by a processor. If the mill receives both hand-cut and machine-cut cane, the average percentage weight of trash delivered with cane harvested by hand shall be computed separately from that harvested by machine and the applicable trash deduction applied to the gross weight of cane harvested by each method.

(e) "Trash" means green or dried leaves, sugarcane tops, dirt, and all other extraneous material delivered with sugarcane.

(f) "Standard sugarcane" mean net sugarcane containing 12.5 percent sucrose in the normal juice.

(g) "Salvage sugarcane" means sugarcane containing less than 9.5 percent sucrose in the normal juice.

(h) "Average percent sucrose in normal juice" means (1) the average percent crusher juice sucrose of the producer's sugarcane multiplied by a factor representing the ratio of factory normal juice sucrose to factory crusher juice sucrose at the processor's mill; or (2) the average percent sample mill juice sucrose of the producer's sugarcane multiplied by a factor representing the ratio of factory normal juice sucrose to the average sample mill juice sucrose analyses of producers' sugarcane.

(i) "Average percent crusher juice sucrose" means the percentage of sucrose in undiluted crusher juice as determined by direct analysis in accordance with standard procedures.

(j) "Factory normal juice sucrose" means the percentage of sucrose in undiluted juice extracted by a mill tandem as determined by multiplying factory dilute juice purity by factory normal juice Brix.

(k) "Factory crusher juice sucrose" means the percentage of sucrose in undiluted crusher juice as determined by direct analysis.

(l) "Average percent sample mill juice sucrose" means the percentage of sucrose solids in juice extracted from samples of each producer's sugarcane by the sample mill.

(m) "Factory normal juice Brix" means the percentage of soluble solids in undiluted juice extracted from sugarcane by a mill tandem as determined by multiplying factory crusher juice Brix by a dry miling factor representing the ratio of factory normal juice Brix to factory crusher juice Brix.

(n) "Factory crusher juice Brix" means the percentage of soluble solids in undiluted crusher juice as determined by direct analysis.

(o) "Factory dilute juice purity" means the ratio of factory dilute juice sucrose to factory dilute juice Brix which are determined by direct analysis.

(p) "State office" means the Florida State Agricultural Stabilization and Conservation Service Office, 401 Southeast First Avenue, Gainesville, FL 32601.

(q) "State committee" means the Florida State Agricultural Stabilization and Conservation Committee.

§ 873.33 Basic price.

(a) The basic price for standard sugarcane shall be not less than $1.12 per ton for each 1-cent per pound of the season's average price of raw sugar.

(b) The basic price for salvage sugarcane shall be as agreed upon between the processor and producer, subject to the approval of the State office.

§ 873.34 Conversion of net sugarcane to standard sugarcane.

Net sugarcane (except salvage sugarcane) shall be converted to standard sugarcane by multiplying the total quantity of net sugarcane delivered by each producer by the applicable quality factor in accordance with the following table:

Average percent sucrose in normal juice	*Standard sugarcane quality factor* [1]
9.5	0.70
10.0	.75
10.5	.80
11.0	.85
11.5	.90
12.0	.95
12.5	1.00
13.0	1.05
13.5	1.10
14.0	1.15
14.5	1.20
15.0	1.25
15.5	1.30

[1] The quality factor for sugarcane of intermediate percentages of sucrose in normal juice shall be interpolated and for sugarcane having more than 15.5 percent sucrose in the normal juice shall be computed in proportion to the immediately preceding interval.

§ 873.35 Molasses payment.

The processor shall pay to the producer for each ton of net sugarcane delivered an amount equal to the product of 5.8 gallons times one-half of the excess above 4.75 cents per gallon of the weighted average net sales price per gallon of blackstrap or final molasses, basis, f.o.b. tank truck or railroad car at mill, sold during the 12-month period ending May 31, 1973.

§ 873.36 Other related specifications.

(a) If the processor furnishes labor, materials, or services used in harvesting, loading, or transporting the producer's sugarcane from the field to the delivery point(s) on the farm, the charge made for such labor, materials, or services may be as agreed upon between the two parties if the producer has the option of performing such operations himself or by contract with a third party. If contractual arrangements between the processor and producer preclude the producer from performing such operations himself or by contract with a third party, the charge made by the processor shall be limited to the actual direct costs of labor, materials, or services, plus applicable overhead expenses which are properly apportionable under generally accepted accounting principles.

(b) The price for sugarcane established by this part is applicable to sugarcane loaded on carts or trucks at the farm, or if sugarcane is transported by railroad, loaded in railroad cars at the railroad siding nearest the farm, and the processor is required to bear the cost of transporting sugarcane (gross weight) from such points to the mill. If sugarcane is transported a distance of more than 14.9 miles to the mill by railroad or other common carrier, the producer may be required to bear the additional cost of transporting such sugarcane (based upon published tariffs). If the processor transports, in his own conveyance, or arranges for the transportation of sugarcane with other than a common carrier, he may charge the producer 5 cents per ton for each mile such sugarcane is transported in excess of 14.9 miles, or if the producer transports sugarcane to the mill by other than railroad or other common carrier the processor shall pay the producer 5 cents per ton for each mile such surgarcane is transported, but not in excess of 14.9 miles.

(c) Deductions for frozen sugarcane, fiber content determinations and deductions, definitions of delivery schedules and similar specifications employed in connection with the purchase of 1972-crop sugarcane shall be substantially in accordance with the general practices in Florida and as agreed upon between the producer and the processor.

(d) Nothing in paragraph (c) of this section shall be construed as prohibiting modification of customs and practices which may be necessary because of unusual circumstances, any such modification to be reported in writing by the processor to the State office.

(e) In the event a general freeze causes abnormally low recoveries of raw sugar by a processor in relation to the sucrose test of the sugarcane, payment for such sugarcane may be made as agreed upon between the producer and the processor subject to the written approval of the State office upon a determination by the State committee that the payment is fair and reasonable.

(f) The processor shall submit to the State office for approval (1) a statement setting forth the weighted average price of raw sugar upon which settlements with producers are based; (2) a statement setting forth the gross proceeds and the handling and delivery expenses deducted in arriving at the weighted average net sales price of blackstrap molasses; and (3) if subject to the limitation set forth in paragraph (a) of this

section, a statement setting forth for each producer the direct costs of labor, materials, and services, plus applicable overhead expenses, used in harvesting, loading, or transporting the producer's sugarcane from the field to the farm delivery point.

§ 873.37 Toll agreements.

The rate for processing sugarcane produced by a processor and processed under a toll agreement by another processor shall be the rate they agree upon.

§ 873.38 Applicability.

The requirements of this part are applicable to all sugacane purchased from other producers and processed by a processor who produces sugarcane (a processor-producer is defined in § 821.1 of this chapter); and to sugarcane purchased by a cooperative processor from non-members. The requirements are not applicable to sugarcane processed by a cooperative processor for its members.

§ 873.39 Subterfuge.

The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

§ 873.40 Processor mill procedures and checking compliance.

The procedures to be followed by processors in determining net sugarcane, trash, average percent sucrose in normal juice, average percent crusher juice sucrose, factory normal juice sucrose, factory crusher juice sucrose, average percent sample mill juice sucrose, and other related mill procedures and required reports are set forth in Handbook 9–SU entitled "Sampling, Testing, and Reporting for Florida Sugar Processors," copies of which have been furnished each processor. The processors shall maintain on file for a period of 5 years records of the original data compiled for the reports required by Handbook 9–SU. The procedures to be followed by the State office in checking compliance with the requirements of this part are set forth under the heading "Fair Price Compliance" in Handbook 3–SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbooks 9–SU and 3–SU may be inspected at county ASCS offices and copies may be obtained from the Florida State ASCS Office, 401 Southeast First Avenue, Gainesville, FL 32601.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1972 crop grown by other producers.

Requirements of the act. Section 301 (c) (2) of the act provides as a condition for payment, that the producer on the farm who is also directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid or contracted to pay under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

1972-crop price determination. This determination differs from the 1971-crop determination in the following respects: (1) the definition of "net sugarcane" has been revised to require the processor to determine the trash content of machine-cut cane separately from that of hand-cut cane and to apply the applicable trash deduction to the cane harvested by each method; (2) the molasses payment to producers is to be based on 5.8 gallons of blackstrap molasses per ton of sugarcane, instead of 5.7 gallons, reflecting the most recent 5-year average recovery.

A public hearing was held in Belle Glade, Fla., on June 16, 1972, at which interested persons were afforded the opportunity to present testimony relating to fair and reasonable prices for 1972-crop Florida sugarcane. A representative of the Glades Association of Independent Sugar Cane Growers, Inc., recommended that: (1) the mill that receives association members' cane for processing be required to drop its requirement that independent producers buy preferred stock in the mill to qualify for additional grinding rights above those currently being extended to them; (2) the mill be required to process on a pro rata basis any producer's increase in production resulting from increased proportionate shares; (3) trash averaging be made on the basis of the cutting method (hand-cut or machine-cut) rather than by averaging all cane together; (4) the in-field hauling rate be reduced and the out-of-field hauling mileage for which the mill is responsible be extended from its present 14.9 miles to 20 miles; (5) overhead and offshore labor expenses be changed to a flat charge per ton rather than a charge based on each grower's total harvesting costs; (6) the mill be required to pay producers their pro rata share of the entire initial payment received by the mill from the refinery for the previous month's sales; (7) the processor's alienation of warehouse stored sugar as loan collateral be restricted to 40 percent; and (8) since an independently prepared report indicates that the annual rate of return on investment to the producers and the processor is disproportionate, that the fair price factor be increased from the present level of $1.12 for the growers for that mill only. A representative of the United States Sugar Corp. recommended no change in the determination for the 1972 crop.

Consideration has been given to the testimony and recommendations presented at the public hearing; to data on the returns, costs, and profits of producing and processing sugarcane in Florida obtained by field survey for a prior crop and recast in terms of price and production conditions likely to prevail for the 1972 crop; and to other pertinent information. Analysis of the relative positions of producers and processors indicates that the provisions of this determination will provide an equitable sharing to total returns based on their sharing of total costs.

In regard to the recommendations concerning capital contributions and grinding rights, the Department received information that these matters are being negotiated and settlement is imminent for the 1972 crop by agreement between the processor and independent producers.

The recommendation by independent producers that trash determinations be made separately for hand-cut cane and machine-cut cane has been adopted. Mechanical harvesting has progressed to the point where it is believed equitable to require that trash determinations be made, and deductions applied separately for mechanically-cut cane.

The recommendations concerning charges made by the processor for in-field hauling, overhead, and offshore labor expenses have not been adopted. The Florida State ASC Committee has requested the Inspector General of the Department to review these and other charges made by the processor for labor, materials, and services used in the harvesting, loading, and transporting of the producer's sugarcane. In the absence of any findings by the Inspector General at this time, it is deemed inadvisable to change the provisions contained in the prior determination covering such charges. Those provisions require the processor to limit the charges to direct cost, plus applicable overhead, if the producer does not have the option of performing the operations himself or by contract with a third party, and to submit to the State office a statement of the charges made to each producer.

The recommendation that the hauling distance for which the processor must bear the cost be extended from 14.9 miles to 20 miles has not been adopted. Prior determinations have required the processor, once he takes delivery of the sugarcane at the farm delivery point, to bear the cost of transporting the cane to the mill up to a distance of 14.9 miles. The producer may be required to bear the costs for distances in excess of 14.9 miles. It is believed that this provision continues to be equitable to both the producer and processor.

The recommendation that the processor be required to pay producers their pro rata share of the initial payment received from the refiner on the previous month's sales has not been adopted. It is believed that the processor in question disburses all proceeds due the growers upon receipt of the proceeds from sugar sales.

The recommendation that processor's alienation of warehouse stored sugar as collateral for loans be restricted to 40 percent has not been adopted. It is felt that it is unnecessary and inappropriate to include such a requirement. The determination includes a provision requiring full payment by the processor to the producer for sugarcane delivered before the processor can qualify for a Sugar Act

payment. It is believed that this constitutes adequate assurance that the producer will receive full payment for his cane.

This determination provides that the molasses payment to producers is to be based on 5.8 gallons of blackstrap molasses per net ton of sugarcane to reflect the most recent 5-year average recovery.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

Effective date. This determination shall become effective upon publication in the FEDERAL REGISTER (12–7–72) and is applicable to the 1972 crop of Florida sugarcane.

Signed at Washington, D.C., on November 30, 1972.

E. J. PERSON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–21059 Filed 12–6–72;8:53 am]

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

[Navel Orange Reg. 278]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.578 Navel Orange Regulation 278.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 8, 1972, through December 14, 1972, are hereby fixed as follows:

(i) District 1: 1,360,000 cartons.

(ii) District 2: 112,000 cartons.

(iii) District 3: 128,000 cartons.

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

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

Dated: December 6, 1972.

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

[FR Doc.72–21208 Filed 12–6–72;11:18 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Honey Price Support Reg., Amdt. 3]

PART 1434—HONEY

Subpart—Honey Price Support Regulations for 1970 and Subsequent Crops

The Honey Price Support Regulations for 1970 and Subsequent Crops (35 F.R. 11773, 13077, and 19567, 36 F.R. 12842) are amended to add paragraph (e) to § 1434.4 to prohibit a producer or an approved cooperative marketing association from reoffering as security or repledging as collateral for a CCC loan any honey that has previously been under CCC loan and subsequently redeemed. Because loans on 1972-crop honey are now being made, it is essential that this provision be made effective as soon as possible. It is therefore found and determined that compliance with the notice of proposed rule making procedure is impractical, unnecessary, and contrary to the public interest. This amendment shall be effective upon publication in the FEDERAL REGISTER (12–7–72). The added paragraph (e) reads as follows:

§ 1434.4 Eligibility requirements.

* * * * *

(e) *Redeemed loan collateral.* A producer shall not reoffer as security, or repledge as collateral, for repayment of a CCC loan any honey that has been previously mortgaged or pledged to secure the repayment of a CCC loan.

Effective date. Upon publication in the FEDERAL REGISTER (12–7–72).

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

E. J. PERSON,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.72–21060 Filed 12–6–72;8:53 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; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 72–587]

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, paragraph (e) (4) relating to the State of New Jersey is amended to read:

(e) * * *

(4) *New Jersey.* The entire State.

2. In § 76.2, in paragraph (e)(2) relating to the State of Indiana, subdivision (iv) relating to Madison, Henry, and Hancock Counties is deleted.

(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, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

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

The amendments quarantine the balance of the State of New Jersey 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 entire State of New Jersey.

The amendments exclude portions of Madison, Hancock, and Henry Counties in Indiana from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed, they are no longer deemed necessary to prevent the spread of hog cholera, and they should be made effective promptly in order to be of maximum benefit to affected persons. 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 1st day of December 1972.

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

[FR Doc.72-21004 Filed 12-6-72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-EA-114, Amdt. 39-1561]

PART 39—AIRWORTHINESS DIRECTIVES

De Havilland Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to de Havilland DHC-6 type airplanes.

There had been reports of cracks in the top flange of the rear wingspar attachment cap of lengths and locations which presented a hazard to air safety. With the assistance of the results of investigations by the Canadian Ministry of Transport, an airworthiness directive is being promulgated which requires repetitive inspections and alterations when necessary of the defective caps.

Because of the hazard to air safety, an airmail dispatch which essentially contained this amendment was transmitted to all known owners and operators of the subject aircraft. Since the deficiency still exists and for purposes of publication in the FEDERAL REGISTER cause exists for waiving notice and public procedure hereon as impractical, the rule may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

DE HAVILLAND. Applies to DHC-6 airplanes Serial Nos. 1 through 330, certificated in all categories, not altered in accordance with de Havilland Modification No. 6/1301 or approved equivalent alteration. To prevent hazards in flight associated with inter-rivet cracking of the top flange of the rear wingspar attachment cap, P/N C6WM1032, accomplish the following:

(1) Within the next 100 hours in service or 2 weeks, whichever occurs first, after the effective date of this A.D., unless accomplished within the last 1,100 hours or 24 weeks, inspect the rear wingspar attachment cap P/N C6WM1032 for cracks in accordance with Paragraph A of Accomplishment Instructions of de Havilland Service Bulletin No. 6/295 dated October 6, 1972 or an FAA-approved equivalent inspection, and at intervals thereafter not to exceed 1,200 hours in service or 26 weeks, whichever occurs first.

(2) If cracks are found outboard of the tenth rivet, accomplish the following:

(a) For cracks within the limits of paragraph (b) of Compliance Instructions of the Service Bulletin, repeat the inspection noted in 1 above at intervals not to exceed 600 hours in service or 13 weeks, whichever occurs first.

(b) For cracks within the limits of paragraph (c) of the Service Bulletin, repeat the inspection noted in 1 above at intervals not to exceed 100 hours in service or 2 weeks, whichever occurs first.

(c) For cracks in excess of the limits of paragraph (b) and (c) of the Service Bulletin, prior to next flight, alter the attachment cap in accordance with paragraph B of Accomplishment Instructions of the Service Bulletin and Figures II and III of Revision "A" of the Bulletin dated November 6, 1972, except that the dye penetrant inspection must be performed with a 10-power glass, or in accordance with an FAA approved equivalent alteration.

Thereafter, inspect altered attachment caps at intervals not to exceed, 1,200 hours in service or 26 weeks, whichever occurs first.

(3) If cracks are found between the third and 10th rivet, prior to next flight, alter the attachment cap as noted in 2(c). Thereafter, inspect inboard of the 10th rivet of the altered attachment caps at intervals not to exceed 100 hours in service or 2 weeks, whichever occurs first, and replace within the next 1,200 hours in service or 26 weeks, whichever occurs first, with a part inspected in accordance with Paragraph 1 including repetitive inspections.

(4) If cracks are found inboard of the third rivet, part must be replaced prior to further flight with a part inspected in accordance with Paragraph 1 including repetitive inspections.

(5) If total length of cracks in any one attachment cap exceeds 30 inches, part must be altered prior to next flight and replaced within the next 1,200 hours in service or 26 weeks, whichever occurs first, with a part inspected in accordance with Paragraph 1 including repetitive inspections.

(6) If cracks are found in accordance with 2(a), 2(b), 2(c), or 3, report the results of such inspection and any repetitive inspection to the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region (reporting approved by the Bureau of the Budget under BOB No. 04-R0174).

(7) Where the A.D. requires replacements or repairs before further flight, the airplane may be flown in accordance with FAR 21.197 to a base where the repair can be performed.

(8) The compliance time may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, upon receipt of substantiating data.

(9) Equivalent inspections, parts, and alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective December 12, 1972, and was effective upon receipt by all recipients of the airmail dispatch dated November 7, 1972.

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

Issued in Jamaica, N.Y., on November 28, 1972.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.72-20966 Filed 12-6-72;8:50 am]

[Docket No. 72-NE-18; Amdt. 39-1571]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Model S-61 Helicopters

There have been reports of loosening and possible cracking of the primary

servo mounting bracket retaining nuts on Sikorsky Model S-61 helicopters which could result in the bracket becoming loose with a possible loss of main rotor control. Since this condition is likely to exist or develop in other helicopters of the same type design, an airworthiness directive is being issued to require removal of all MS21042-6 or MS20365-624C retaining nuts from the primary servo mounting brackets and replacement with the P/N MS21045-6 retaining nut.

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

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

Applies to all Sikorsky S-61A, S-61B, S-61D, S-61L Series prior to SS No. 61454, S-61N Series prior to SS No. 61493, S-61R, S-61V helicopters certificated in all categories.

Compliance required as indicated.

To prevent hazards in flight due to loss of main rotor control as a result of cracked primary servo mounting bracket retaining nuts, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this Airworthiness Directive, remove all MS21042-6 or MS20365-624C retaining nuts from the primary servo mounting brackets, P/N S6135-20249, and replace with P/N MS21045-6 retaining nuts in accordance with Sikorsky Service Bulletin No. 61B35-18 dated November 10, 1972, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

(b) Upon request with substantiation data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

(c) Equivalent methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

This amendment becomes effective December 15, 1972.

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

Issued in Burlington, Mass., on November 28, 1972.

W. E. CROSBY,
Deputy Director,
New England Region.

[FR Doc.72-20965 Filed 12-6-72;8:50 am]

[Airspace Docket No. 72-EA-94]

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

Alteration of Control Zone and Transition Area

Correction

In F.R. Doc. 72-20616, appearing at page 25487, in the issue of Friday, December 1, 1972, the bracket should read as set forth above.

[Airspace Docket No. 72-WA-12]

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

Designation of Terminal Control Area at Boston, Mass.

On September 1, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 17857) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a Group I Terminal Control Area (TCA) for Boston, Mass.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Due consideration was given to all relevant matter presented.

Sixty-eight replies were received in response to the TCA proposal. Favorable comments were received from National Business Aircraft Association, Air Transport Association, Massachusetts Aviation Trades Association, Massachusetts Port Authority and various corporate users. Opposition was voiced by gliding and soaring interests and objections were raised to the basic TCA concept or to portions of the proposed airspace configuration by various other interests. Some of the adverse comments expressed a preference for a corridor configuration. Several objected to establishment of a Group I TCA at Boston. A few claimed that the TCA erodes the right of individual pilots in that it discriminates against one segment of aviation in favor of another. Other comments were concerned with compression of traffic under the floors and around the perimeter of the TCA configuration and the lack of buffer zones in these areas. Each of these objections was discussed in detail when the general air traffic rules for operation within terminal control areas were adopted in Docket No. 9880 (35 F.R. 7782), effective June 25, 1970. It is not considered necessary or appropriate to discuss them further at this point.

The Airport Manager, Worcester Municipal Airport, expressed concern that the lateral limits of the TCA configuration might eventually affect operations at the Worcester Airport in the event that future projections of Worcester as a reliever airport might be realized. We do not foresee this as a serious problem. If traffic were to increase appreciably in the Worcester area, appropriate adjustments to the Boston TCA would be made.

The ALPA representative expressed concern that large turbo-jet aircraft might violate the floor of Area D while climbing at or near maximum gross takeoff weight during the hot summer months. The 4,000-foot floor of Area D will contain a minimum rate-of-climb of 300 feet per nautical mile. This will accommodate all turbo-jet aircraft except under the most adverse conditions.

General Aviation objections to the proposed configuration included: the extent of the 3,000-foot floor in Area C because of inconvenience and potential safety hazards for VFR aircraft operating in the south quadrant as well as to those flying to and from perimeter airports; a request that the seaplanes traveling throughout the island complex; and a recommendation that Area A be modified to permit nontransponder/VOR equipped aircraft to fly at 1,000 feet and below along a line from Swampscott (8.5 miles northeast) to Nantasket Beach (8.5 miles southeast). The objection to the floor of Area C included two requests for a continuation of Area D—one request for an expansion between the Boston 020° and 153° radials at altitudes of 4,000 and 7,000 feet and the other request for an extension counterclockwise from the 245° radial to a point that would encompass the Whitman VORTAC.

The objection of inconvenience is based on the pilot's preference for flight over the water area of the outer harbor at a minimum altitude of 3,000 feet. The preference for over-water flight at the higher altitude is understandable; however, aircraft landing and departing Logan Airport would routinely penetrate this area. Therefore, this suggested modification to the TCA design would be unacceptable.

The requested expansion of Area D would adversely affect arrival and departure procedures at Logan Airport. Area D was developed after discussions with the principal users and user organizations operating in the Boston metropolitan area. It makes available more airspace for VFR flight without imposing intolerable retrictions on the air traffic control system, thereby making the TCA less restrictive to small fixed base operators, flight school operators and to the pilots composing the general aviation community. Area C coincides with the primary traffic flow in and out of Boston and at the same time provides sufficient areas for radar vectoring and sequencing. Extension of Area D to the easterly or southerly quadrants would severely reduce the airspace needed for sequencing aircraft arriving at Logan Airport, impose possibly intolerable climb restrictions on heavily loaded overseas departures, and require establishment of multistepdown fixes for each standard instrument approach procedure.

The substance of comments from gliding and soaring interests were directed toward several general categories, i.e., TCA favors air carrier aircraft at the expense of general aviation and glider operators; gliders should be excepted from VOR and transponder requirements because of electrical power and weight restrictions; gliders should be granted the same equipment exclusions as those afforded helicopters; gliders should be allowed operation within the TCA while equipped with two-way radio only; turbine-powered aircraft should be restricted to TCA entry and exit only at the top altitude.

The TCA concept was developed to segregate high-performance aircraft

from the general mix of aviation. Furthermore, the basic "Keep-'em High" policy was generated because of similar concerns. Inclusion of sailplanes within the airspace at altitudes most frequently used by turbine-engine powered aircraft would be completely alien to the rationale put forth in justification of the segregation concept. The argument that gliders should be granted the same exclusion given helicopters is not valid based simply on flight characteristics. Whereas, helicopters operate a very low altitude over precisely defined routes, i.e., highways, streets or rivers, gliders generally operate at higher altitudes over courses normally determined by weather phenomena.

Due to the wide variations of course and altitude necessary to sustain long-term sailplane flight, potential collisions between these aircraft and high-performance turbo-jet aircraft cannot be predicted with sufficient accuracy to apply standard separation criteria.

All other comments received, both to the notice and at the user meetings held over the past several months, have been given serious consideration. Subsequent meetings will be held from time to time to discuss the program and the need for changes.

In consideration of the foregoing, § 71.401(a) (37 F.R. 2327) of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 5, 1973, by adding the Boston, Mass., Group I Terminal control area as follows:

BOSTON, MASS., TERMINAL CONTROL AREA

PRIMARY AIRPORT

Logan International Airport (lat. 42°21'47" N., long. 71°00'19" W.); Boston VORTAC (lat. 42°21'28" N., long. 70°59'38" W.).

Boundaries:

1. *Area A.* That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile radius of the Boston VORTAC.

2. *Area B.* That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within a 10.5-mile radius of the Boston VORTAC, excluding Area A.

3. *Area C.* That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of the Boston VORTAC, excluding Areas A and B previously described and that airspace within and underlying Area D described hereinafter.

4. *Area D.* That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 15- and 20-mile radii of the Boston VORTAC extending from the Boston VORTAC 230° radial clockwise to the Boston VORTAC 005° radial.

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

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

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

[FR Doc.72-21003 Filed 12-6-72;8:46 am]

[Airspace Docket No. 71-WA-14]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On April 30, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8161) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate area high routes in the United States (J968R, J969R, J970R).

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. The only adverse comment received came from Vance Air Force Base, objecting to the proposed location of J970R above the southwest corner of Vance Intensive Student Jet Training Area (ISJTA) No. 1 and its possible conflict with their training mission. However, since en route aircraft will not be cleared via J970R when Air Force aircraft are operating in the area, there should be no derogation to the Air Force mission.

By relocating two presently designated waypoints to points of intersection with the routes designated in this docket, the requirement to establish two new waypoints has been eliminated without altering any of the routes. A typographical error has been found in the coordinates of the Chapin, Ill., waypoint in J800R and is corrected in this rule. J968R is hereby withdrawn to permit further evaluation. This route may be modified and proposed in a subsequent airspace docket.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 1, 1973, as hereinafter set forth.

Section 75.400 (37 F.R. 2400, 4326) is amended as follows:

a. In J800R "Chapin, Ill. 39°39'58" N./90°35'08" W. St. Louis, Mo." is deleted and "Chapin, Ill. 39°39'52" N./90°35'08" W. St. Louis, Mo." is substituted therefor; also "Flora, N. Mex. 36°46'10" N./108°06'23" W. Farmington, N. Mex." is deleted and "Flora, N. Mex. 36°46'16" N./108°09'14" W. Farmington, N. Mex." is substituted therefor.

b. In J801R "Powder Horn, Colo. 38°-15'52" N./106°57'50" W. Gunnison, Colo." is deleted and "Cabin Creek, Colo. 38°21'36" N./106°38'31" W. Gunnison, Colo." is substituted therefor.

c. Area high route J969R is added as follows:

Waypoint name	N. latitude/W. longitude (in degrees, minutes, and seconds)	Reference facility
J969R Denver, Colo., to Phoenix, Ariz.		
Shawnee, Colo.	39 25 38/105 27 51	Denver, Colo.
Cabin Creek, Colo.	38 21 36/106 38 31	Gunnison, Colo.
Flora, N. Mex.	36 46 16/108 09 14	Farmington, M. Mex.
Shumway, Ariz.	34 37 12/110 09 36	Winslow, Ariz.
Phoenix, Ariz.	33 25 53/111 53 17	Phoenix, Ariz.

d. Area high route J970R is added as follows:

Waypoint name	N. latitude/W. longitude (in degrees, minutes, and seconds)	Reference facility
J970R Denver, Colo., to Dallas, Tex.		
Lamar, Colo.	38 11 50/102 41 14	Garden City, Kans.
Ardmore, Okla.	34 12 41/97 10 05	Oklahoma City, Okla.

(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 November 29, 1972.

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

[FR Doc.72-20964 Filed 12-6-72;8:50 am]

[Docket No. 12393, Amdt. 841]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection

Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

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

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

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective January 18, 1973:

Auburn, Ala.—Auburn-Opelika Airport, VOR Runway 28, Amendment 2.
Fremont, Mich.—Fremont Municipal Airport, VOR-A, Amendment 3.
Hope, Ark.—Hope Municipal Airport, VOR/DME Runway 4, Amendment 1.
Little Rock, Ark.—Adams Field, VOR Runway 32, Amendment 13.
Middleton Island, Alaska—Middleton Island Airport, VOR Runway 19, Amendment 2.
Olathe, Kans.—Johnson County Airport, VOR Runway 35, Amendment 3.
Painesville, Ohio—Concord Airpark, VOR-A, Amendment 3.
Raleigh, N.C.—Raleigh Municipal Airport, VOR Runway 14, Original; canceled.
Rapid City, S. Dak.—Rapid City Regional Airport, VOR Runway 32, Amendment 16.
Rockton, Ill.—Wagon Wheel Airport, VOR-A, Amendment 1.
Torrance, Calif.—Torrance Municipal Airport, VOR Runway 11L, Amendment 9.
Tucson, Ariz.—Tucson International Airport, VOR-A, Amendment 3.
Tucson, Ariz.—Tucson International Airport, VOR/DME-A, Amendment 2.
Valdosta, Ga.—Valdosta Municipal Airport, VOR Runway 35, Amendment 19.

* * * effective Nobember 29, 1972:

Doylestown, Pa.—Doylestown Airport, VOR Runway 23, Amendment 3.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective January 18, 1973:

Columbia, Mo.—Columbia Regional Airport, LOC(BC) Runway 20, Amendment 1.
Fort Worth, Tex.—Meacham Field, LOC (BC) Runway 35, Amendment 15.
Gainesville, Fla.—Gainesville Municipal Airport, LOC(BC) Runway 10, Original.
Juneau, Alaska—Juneau Municipal Airport, LDA Runway 8, Amendment 1.
Little Rock, Ark.—Adams Field, LOC(BC) Runway 22, Amendment 5.
Torrance, Calif.—Torrance Municipal Airport, LOC Runway 29R, Amendment 1.
Tucson, Ariz.—Tucson International Airport, LOC Runway 11L, Amendment 2.
Tucson, Ariz.—Tucson International Airport, LOC(BC) Runway 29R, Amendment 2.

* * * effective December 14, 1972:

Hancock, Mich.—Houghton County Memorial Airport, LOC(BC)/DME Runway 13, Original.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective January 18, 1973:

Bryan, Ohio—Williams County Airport, NDB(ADF) Runway 25, Original; canceled.
Bryan, Ohio—Williams County Airport, NDB-A, Original.
Columbia, Mo.—Columbia Regional Airport, NDB Runway 2, Amendment 1.
Dayton, Ohio—James M. Cox/Dayton Municipal Airport, NDB Runway 6L/R, Amendment 2; canceled.
Dayton, Ohio—James M. Cox/Dayton Municipal Airport, NDB Runway 6L, Original.
Dayton, Ohio—James M. Cox/Dayton Municipal Airport, NDB Runway 6R, Original.
Dayton, Ohio—James M. Cox/Dayton Municipal Airport, NDB Runway 24L/R, Amendment 10; canceled.
Dayton, Ohio—James M. Cox/Dayton Municipal Airport, NDB Runway 24L, Original.
Dayton, Ohio—James M. Cox/Dayton Municipal Airport, NDB Runway 24R, Original.
Daytona Beach, Fla.—Daytona Beach Regional Airport, NDB Runway 6L, Amendment 14.
Fort Worth, Tex.—Meacham Field, NDB Runway 35, Amendment 5.
Little Rock, Ark.—Adams Field, NDB Runway 4, Amendment 11.
Middleton Island, Alaska—Middleton Island Airport, NDB-A, Amendment 4.
San Antonio, Tex.—International Airport, NDB Runway 3R, Amendment 28.
Tucson, Ariz.—Tucson International Airport, NDB-A, Amendment 3.

* * * effective December 14, 1972:

Burlington, Iowa—Burlington Municipal Airport, NDB Runway 36, Original.
Hancock, Mich.—Houghton County Memorial Airport, NDB Runway 31, Original.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective January 18, 1973:

Columbia, Mo.—Columbia Regional Airport, ILS Runway 2, Amendment 2.
Daytona Beach, Fla.—Daytona Beach Regional Airport, ILS Runway 6L, Amendment 17.
Little Rock, Ark.—Adams Field, ILS Runway 4, Amendment 14.
Miami, Fla.—Miami International Airport, ILS Runway 9L, Amendment 13.
Miami, Fla.—Miami International Airport, Parallel ILS Runway 9L, Amendment 4; canceled.
San Antonio, Tex.—International Airport, ILS Runway 3R, Amendment 5.
Tucson, Ariz.—Tucson International Airport, ILS Runway 11L, Amendment 2.

* * * effective December 14, 1972:

Burlington, Iowa—Burlington Municipal Airport, ILS Runway 36, Original.
Hancock, Mich.—Houghton County Memorial Airport, ILS Runway 31, Original.

* * * effective November 24, 1972:

Fort Smith, Ark.—Fort Smith Municipal Airport, ILS Runway 25, Amendment 12.

5. Section 97.31 is amended by originating, amending, or canceling the following Radar SIAPs, effective January 18, 1973:

Orlando, Fla.—Herndon Airport, Radar-1, Amendment 13.
Jacksonville, Fla.—Jacksonville International Airport, Radar-1, Amendment 1.
Little Rock, Ark.—Adams Field, Radar-1, Amendment 7.
San Antonio, Tex.—International Airport, Radar-1, Amendment 16.
Tucson, Ariz.—Tucson International Airport, Radar-1, Amendment 7.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs effective January 18, 1973:

Little Rock, Ark.—Adams Field, RNAV Runway 22, Amendment 1.
Little Rock, Ark.—Adams Field, RNAV Runway 35, Amendment 1.
Sanford, Fla.—Sanford Airport, RNAV Runway 9, Amendment 3.
Torrance, Calif.—Torrance Municipal Airport, RNAV Runway 29R, Amendment 3.
Tucson, Ariz.—Tucson International Airport, RNAV Runway 11L, Original.
Tucson, Ariz.—Tucson International Airport, RNAV Runway 29R, Original.
West Palm Beach, Fla.—Palm Beach International Airport, RNAV Runway 13, Original.

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

Issued in Washington, D.C., on November 30, 1972.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

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

[FR Doc.72-20963 Filed 12-6-72;8:50 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

General Counsel

The Securities and Exchange Commission hereby amends § 200.21 of Chapter II of Title 17 of the Code of Federal Regulations as set forth below to clarify certain duties of its General Counsel and to reflect a change resulting from its reorganization as announced in Release Nos. 33-5289, etc., published in the FEDERAL REGISTER for August 19, 1972, at 37 F.R. 16791 to 16797. As so amended § 200.21 reads as follows:

§ 200.21 The General Counsel.

The General Counsel is the chief legal officer of the Commission and is responsible for the representation of the Commission in judicial proceedings in which it is involved as a party or as amicus curiae, directing and supervising all civil litigation in the U.S. District Courts (except District Court proceedings under Chapter X of the Bankruptcy Act), and representing the Commission in all cases in appellate courts. He is

responsible, in collaboration with the Division of Enforcement, for the review of cases to be referred to the Department of Justice with a recommendation for criminal prosecution. In addition, in appropriate cases he is responsible for advising the Commission at its request or at the request of any Division Director or Office Head, or on his own motion, with respect to interpretations involving questions of law; for the conduct of administrative proceedings relating to the disqualification of professional persons from practice before the Commission; for the preparation of Commission comments to the Congress on pending legislation; and for the drafting, in conjunction with appropriate divisions and officers, of proposed legislation to be sponsored by the Commission. He is also responsible for the review and clearance of the form and content of articles, treatises, and prepared speeches and addresses by members of the staff relating to the Commission or to the statutes and rules administered by the Commission. Additionally, he has responsibility with the Office of Opinions and Review for dealing with general problems arising under the Administrative Procedure Act, including the revision or adoption of rules of practice, and with the Director of Personnel with respect to the administration of Rule 6 of the Regulation Regarding Conduct of Members and Employees and Former Members and Employees (17 CFR 200.735–8).

(Sec. 4(b), 48 Stat. 885, sec. 1106(a), 63 Stat. 972, 15 U.S.C. 78d(b); secs. 1, 2, 76 Stat. 394, 395, 15 U.S.C. 78d–1, 78d–2; secs. 19, 209, 48 Stat. 85, 908, 15 U.S.C. 77s; sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w (a); sec. 20, 49 Stat. 833, 15 U.S.C. 79t; sec. 319, 53 Stat. 1173, 15 U.S.C. 77sss; sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37; sec. 211, 54 Stat. 855, sec. 14, 74 Stat. 888, 15 U.S.C. 80b–11)

The Commission finds that the foregoing amendment relates solely to agency organization, procedure and practice and that notice and procedures specified under 5 U.S.C. 553 are unnecessary. Accordingly, the foregoing amendment is declared to be effective December 1, 1972.

For the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

DECEMBER 1, 1972.

[FR Doc.72-20999 Filed 12-6-72;8:50 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-453; Order 462]

ACCOUNTS, RECORDS, MEMORANDA, AND ANNUAL REPORTS

DECEMBER 1, 1972.

On September 8, 1972, the Commission issued a notice of proposed rule making in this proceeding (37 F.R. 18632, September 14, 1972) proposing to amend its Regulations Under the Federal Power Act and the Natural Gas Act and Annual Report Forms No. 1 and No. 2.

Views and comments were invited from interested parties to be submitted on or before October 23, 1972. The Commission received seven responses[1] representing nine respondents, none of which objected to the proposed changes. As a result of suggestions received, we are modifying the changes, as proposed, to schedule, page 519, Field and Main Line Industrial Sales of Natural Gas, of Annual Report Form No. 2, which would provide information on deliveries made by pipeline companies applicable to system peak-day deliveries made to firm and interruptible direct industrial customers, to provide that coincidental peak-day deliveries, noncoincidental peak-day deliveries, and the date of each noncoincidental peak-day delivery are also to be reported.

Suggestions from respondents directed toward clarification of the instructions pertaining to the other proposed changes in the rule making have, in the most part, been adopted. The changes to the regulations under the Federal Power Act and Natural Gas Act, and FPC Form No. 1 and No. 2 we are adopting are:

1. Modifications of the Commission's Regulations pertaining to certification or compliance with accounting to provide that only independent certified accountants or independent licensed public accountants who were licensed on or before December 31, 1970, will be authorized to certify certain schedules on the Commission's Annual Report Forms No. 1 and No. 2, and to conduct annual audits of companies regulated by the Federal Government after December 31, 1975. This change is essentially in harmony with a recent recommendation from the Comptroller General of the United States.[2]

2. Amendments to FPC Annual Report Forms No. 1 and No. 2 requiring the name and address of the respondent's independent certified public accountant, or independent licensed public accountant, the date such accountant was engaged and, if one of the above accountants has been engaged as the principal accountant to audit the respondent's financial statements who was not the principal accountant for the respondent's prior field certified financial statements, the date when such independent account was initially engaged.

3. Modification of Schedule, page 110, Comparative Balance Sheet—Assets and Other Debits, of both Annual Report Forms No. 1 and No. 2 to separate Account 107, Construction Work in Progress, from the utility plant classification.

4. Reentitlement of Schedule, page 118, Source and Application of Funds for the Year, of both Annual Report Forms No. 1 and No. 2, to Statement of Changes in Financial Position.

5. Five minor changes for purposes of clarification and classification to Schedule, page 560, Underground Storage.

The Commission finds:

(1) Notice and opportunity to participate in this rule making proceeding with respect to the matters presently before this Commission through the submission, in writing of data, views, comments, and suggestions in the manner described above, are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) The amendments of the Commission's Regulations Under the Federal Power Act and Annual Report Form No. 1 schedules herein prescribed are necessary and appropriate for the administration of the Federal Power Act.

(3) The amendments of the Commission's Regulations Under the Natural Gas Act and Annual Report Form No. 2 schedules herein prescribed are necessary and appropriate for the administration of the Natural Gas Act.

(4) Since the revised schedules of FPC Annual Report Forms No. 1 and No. 2 are being prescribed for the reporting year 1972, good cause exists for making the amendments adopted herein effective immediately.

(5) The changes prescribed herein which were not included in the notice in this proceeding are of a minor nature, and further notice thereof is therefore unnecessary.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 301, 304, and 309 thereof (49 Stat. 854, 855–856, 858–859; 16 U.S.C. 825, 825c, 825h) and of the Natural Gas Act, as amended, particularly sections 8, 10, and 16 thereof (52 Stat. 825–826, 830; 15 U.S.C. 717g, 717i, 717o), orders:

PART 41—ACCOUNTS, RECORDS, AND MEMORANDA

A. Sections 41.10 and 41.12, Chapter I, Title 18 of the Code of Federal Regulations are amended by deleting references to independent licensed public accountants.

As so amended, this portion of §§ 41.10 and 41.12 will read:

CERTIFICATION OF COMPLIANCE WITH ACCOUNTING REGULATIONS

§ 41.10 Examination of accounts.

(a) All Class A and Class B public utilities and licensees shall secure, for the year 1968 and each year thereafter until December 31, 1975, the services of an independent certified public accountant, or independent licensed public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, to test compliance in all material respects of those schedules as are indicated in the General

[1] Arizona Public Service Co., Arkansas Louisiana Gas Co., Cincinnati Gas & Electric Co., Commonwealth Edison Co., Eugene Municipal Utilities, Public Service Indiana, United Gas Pipe Line Co.

[2] Per Comptroller General of the United States letters dated May 12, 1970, and Sept. 15, 1970, Subject: Qualifications of public accountants making audits of federally chartered, financed or regulated private organizations. GAO File No. B-148144 and No. B-148114.

Instructions set out in the Annual Report, Form No. 1, with the Commission's applicable Uniform System of Accounts and published accounting releases. The Commission expects that identification of questionable matters by the independent accountant will facilitate their early resolution and that the independent accountant will seek advisory rulings by the Commission on such items. This examination shall be deemed supplementary to periodic Commission examinations of compliance.

(b) Beginning January 1, 1976, and each year thereafter, only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, will be authorized to conduct annual audits and to certify to compliance in all material respects, of those schedules as are indicated in the General Instructions set out in the Annual Report, Form No. 1, with the Commission's applicable Uniform System of Accounts, published accounting releases and all other regulatory matters.

§ 41.12 Qualifications of accountants.

The Commission will not recognize any certified public accountant or public accountant through December 31, 1975, who is not in fact independent. Beginning January 1, 1976, and each year thereafter, the Commission will recognize only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, who are in fact independent. For example, an accountant will not be considered independent with respect to any person or any of its parents or subsidiaries in whom he has, or had during the period of report, any direct financial interest. The Commission will determine the fact of independence by considering all the relevant circumstances including evidence bearing on the relationships between the accountant and that person or any affiliate thereof.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

B. Effective for the reporting year 1972, FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others, (Class A and Class B), prescribed by § 141.1, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising certain schedule pages, all as set out in Attachment A hereto.[3]

PART 158—ACCOUNTS, RECORDS, AND MEMORANDA

C. Sections 158.10 and 158.12, Chapter I, Title 18 of the Code of Federal Regulations is amended by deleting reference to independent licensed public accountants.

As so amended, this portion of §§ 158.10 and 158.12 will read:

[3] Attachment A filed as part of the original document.

CERTIFICATION OF COMPLIANCE WITH ACCOUNTING REGULATIONS

§ 158.10 Examination of accounts.

(a) All Class A and Class B natural gas companies shall secure for the year 1968 and each year thereafter until December 31, 1975, the services of an independent certified public accountant, or independent licensed public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, to test compliance in all material respects of those schedules as are indicated in the General Instructions set out in the Annual Report, Form No. 2, with the Commission's applicable Uniform System of Accounts and published accounting releases. The Commission expects that identification of questionable matters by the independent accountant will facilitate their early resolution and that the independent accountant will seek advisory rulings by the Commission on such items. This examination shall be deemed supplementary to periodic Commission examinations of compliance.

(b) Beginning January 1, 1976, and each year thereafter, only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, will be authorized to conduct annual audits and to certify to compliance in all material respects, of those schedules as are indicated in the General Instructions set out in the Annual Report, Form No. 2, with the Commission's applicable Uniform System of Accounts, published accounting releases and all other regulatory matters.

§ 158.12 Qualifications of accountants.

The Commission will not recognize any certified public accountant or public accountant through December 31, 1975, who is not in fact independent. Beginning January 1, 1976, and each year thereafter, the Commission will recognize only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, who are in fact independent. For example, an accountant will not be considered independent with respect to any person or any of its parents or subsidiaries in who he has, or had during the period of report, any direct financial interest. The Commission will determine the fact of independence by considering all the relevant circumstances including evidence bearing on the relationships between the accountant and that person or any affiliate thereof.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

D. Effective for the reporting year 1972, FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B), prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising certain schedule pages; all as set out in Attachment B[4] hereto.

E. The amendments ordered herein are effective as of the date of issuance of this order.

F. 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.72-21047 Filed 12-6-72;8:51 am]

[4] Attachment B filed as part of the original document.

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

BENOMYL

A petition (FAP 2H5009) was filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) in dried apple pomace at 70 parts per million from carryover and concentration after application (preharvest and/or postharvest) of the fungicide to the raw agricultural commodity apples. (For a related document, see this issue of the FEDERAL REGISTER, page 26009).

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Having evaluated the data in the petition and other relevant material, it is concluded that the tolerance should be established for combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl).

Therefore, pursuant to provisions of the act (sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Adminstrator to the Deputy

Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 121 is amended by adding the following new section to Subpart C:

§ 121.343 Benomyl.

A tolerance of 70 parts per million is established for combined residues of the fungicide benomyl (methyl 1 - (butylcarbamoyl) -2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in dried apple pomace when present therein as a result of application (preharvest and/or postharvest) of the fungicide to the raw agricultural commodity apples.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (12-7-72).

(Sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4))

Dated: November 29, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20979 Filed 12-6-72;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7225]

PART 12—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

Transfer to a DISC of Assets of Export Trade Corporation

In order to prescribe temporary regulations, relating to transfers to a DISC of assets of an export trade corporation pursuant to section 505 of the Revenue Act of 1971 (Public Law 92-178, 85 Stat. 551), the following regulations are hereby adopted:

§ 12.5 Transfer to a DISC of assets of export trade corporation.

(a) *In general.* (1) Section 505 of the Revenue Act of 1971 (85 Stat. 551) provides special rules with respect to certain transfers of property by an export trade corporation (as defined in section 971) to a DISC (as defined in section 992(a)).

(2) For purposes of this section, all statutory references are to the Internal Revenue Code of 1954 except that references to section 505 are to the Revenue Act of 1971. All terms used in this section shall have the same meaning as when used in such Code.

(b) *Indirect transfers to a DISC.* (1) Under section 505(b)(1), if during a taxable year of an export trade corporation beginning before January 1, 1976, such export trade corporation directly transfers property without consideration to a DISC, if all of the outstanding stock of each of such corporations is owned by a common parent, and if certain other conditions are met, then, among other consequences enumerated in section 505, notwithstanding section 367 or any other provision of chapter 1 of the Code, no gain or loss to the export trade corporation, the parent, or the DISC shall be recognized by reason of such transfer. If, instead of a direct transfer from the export trade corporation to the DISC, the parties enter into an indirect transfer in which the property is distributed by the export trade corporation to the parent and immediately thereafter is transferred by the parent to the DISC, then for purposes of section 505(b) the transaction will be treated as a direct transfer by the export trade corporation to the DISC, but only if—

(i) It is shown to the satisfaction of the Commissioner or his delegate that such indirect transfer of the property was carried out for bona fide business reasons, and

(ii) Each U.S. person (as defined in section 7701(a)(30)) which is a party to the indirect transfer enters into a closing agreement under section 7121 which provides that each of the tax consequences enumerated in section 505(b) shall apply.

(2) Subparagraph (1) of this paragraph shall apply also to any other indirect transfer to the DISC if section 505 would be applicable to a direct transfer by the export trade corporation to the DISC and all of the parties to such indirect transfer meet the 100 percent stock ownership requirement set forth in paragraph (c) of this section.

(c) *Special rule for stock ownership.* (1) Under section 505(b)(3), the Secretary or his delegate may prescribe rules for the application of the provisions of section 505(b)(1) where the stock of the DISC or export trade corporation, or both, is not owned in the manner prescribed in section 505(b)(1).

(2) Section 505(b) shall apply in any case in which 100 percent of the outstanding stock of the DISC and the export trade corporation, is owned by the common parent either directly or indirectly. For purposes of this section, if a corporation owns 100 percent of the outstanding stock of a subsidiary, such corporation shall be considered to own indirectly any stock directly or indirectly owned by the subsidiary.

(3) If (without regard to this subparagraph) the 100 percent stock ownership requirement in subparagraph (2) of this paragraph is not met with respect to a corporation solely because a person holds the minimum amount of stock in a corporation required by law (such as, for example, qualifying shares of a director), then such 100 percent of stock ownership requirement shall nevertheless be considered to be met.

(d) *Additional transfers to meet untaxed subpart F income requirement.* (1) Section 505(b)(1) applies only if the adjusted basis to the export trade corporation of the property transferred to the DISC is not less than the amount of the export trade corporation's untaxed subpart F income (as defined in section 505(b)(2)) at the time of such transfer. For purposes of computing the amount of untaxed subpart F income at the time of the transfer, the export trade corporation's taxable year shall be treated as ending upon such transfer.

(2) At the time of the initial transfer to the DISC, any reasonable method may be used to estimate the amount of untaxed subpart F income so long as the adjusted bases of all the property transferred to the DISC are not less than—

(i) The amount of untaxed subpart F income as of the beginning of the export trade corporation's taxable year in which the transfer is made plus

(ii) 75 percent of the excess of the untaxed subpart F income at the time of the transfer over the amount described in subdivision (i) of this subparagraph.

(3) Section 505 shall apply to both the initial transfer and any transfer of property by the export trade corporation to the DISC within 2½ months after the close of the export trade corporation's taxable year (determined without regard to the last sentence of subparagraph (1) of this paragraph) in which the initial transfer of the property is made to the DISC, but only to the extent that the sum of the adjusted bases of all property additionally transferred does not exceed an amount equal to (i) the actual amount of untaxed subpart F income at the time of the transfer minus (ii) the adjusted bases of the property initially transferred under subparagraph (2) of this paragraph.

(e) *Foreign income taxes paid by export trade corporation.* Under section 505(b)(1)(H), any foreign income taxes which would have been deemed under section 902 to have been paid by the parent if the transfer had been made to the parent shall be treated as foreign income taxes paid by the DISC. If foreign law imposes an additional tax on the export trade corporation upon its transfer of property to the DISC, then such

additional tax will be treated under section 505(b)(1)(H) as paid by the DISC only if such tax is imposed with respect to the earnings of the export trade corporation. If, instead, the foreign tax is imposed upon the corporation receiving (or constructively receiving) a dividend from the export trade corporation, then section 505(b)(1)(H) shall not apply even though the export trade corporation withheld and paid such tax. If the provisions of section 901 apply, a foreign tax credit shall be allowable to the corporation receiving or constructively receiving the dividend.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

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

Approved: December 1, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-21000 Filed 12-4-72;10:20 am]

Title 29—LABOR

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

PART 1901—PROCEDURES FOR STATE AGREEMENTS

Clarification

Pursuant to authority in sections 8 and 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 667) and Secretary of Labor's Order No. 12-71 (36 F.R. 8754), 29 CFR Part 1901 is amended to clarify the intended duration of State authority under agreements established in accordance with it.

As this amendment provides an interpretative rule, notice of proposed rulemaking, public participation therein and delay in effective date are not required (5 U.S.C. 553). Accordingly, upon publication of this document in the FEDERAL REGISTER, 29 CFR 1901.5(b) is amended by the addition of a second sentence to read as follows:

§ 1901.5 Termination of agreements.

* * * * *

(b) In no event shall an agreement under this part continue in effect beyond the time when final action is taken by the Secretary with respect to a plan submitted by a State under section 18 (b) of the Act or December 28, 1972, whichever is earlier. However, the termination of an agreement under this paragraph is not considered to affect any proceeding already commenced under the State law.

* * * * *

(Secs. 8, 18, 84 Stat. 1600, 1609; 29 U.S.C. 657, 667)

Signed at Washington, D.C., this 1st day of December 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-21010 Filed 12-6-72;8:47 am]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Application of "Established Federal Standards"; Clarification

Section 1910.11 of Title 29, Code of Federal Regulations, is hereby amended in the manner indicated below in order to make more clear that, whenever Subpart B of Part 1910 incorporates by reference "established Federal standards" which are published elsewhere in Title 29, there is incorporation of only substantive rules affecting safety or health. There is no intention of incorporating in rules under the Occupational Safety and Health Act any other rules having special applicability under the laws under which the "established Federal standards" were initially adopted, such as the Longshoremen's and Harbor Workers' Compensation Act or the Construction Safety Act.

The amendment is an interpretive rule requiring no notice, public procedure, or delay in effective date under either the Administrative Procedure Act or under the Occupational Safety and Health Act of 1970.

As amended, § 1910.11 reads as follows:

§ 1910.11 Scope and purpose.

(a) The provisions of this Subpart B adopt and extend the applicability of, established Federal standards in effect on April 28, 1971, with respect to every employer, employee, and employment covered by the Act.

(b) It bears emphasis that only standards (i.e., substantive rules) relating to safety or health are adopted by any incorporations by reference of standards prescribed elsewhere in this chapter or this title. Other materials contained in the referenced parties are not adopted. Illustrations of the types of materials which are not adopted are these. The incorporations by reference of Parts 1915, 1916, 1917, 1918 in §§ 1910.13, 1910.14, 1910.15, and 1910.16 are not intended to include the discussion in those parts of the coverage of the Longshoremen's and Harbor Workers' Compensation Act or the penalty provisions of the Act. Similarly, the incorporation by reference of Part 1926 in § 1910.12 is not intended to include references to interpretative rules having relevance to the application of the Construction Safety Act, but having no relevance to the application to the Occupational Safety and Health Act.

(Sec. 8(g), Public Law 91-596, 84 Stat. 1600, 29 U.S.C. 657)

Signed at Washington, D.C., this 1st day of December 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-21011 Filed 12-6-72;8:47 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER F—AIRCRAFT

PART 858—ORIENTATION FLIGHTS

Part 858, Chapter VII of Title 32 of the Code of Federal Regulations is hereby deleted. The regulation on which it was based has been replaced by a Department of Defense regulation.

(10 U.S.C. 8012)

By order of the Secretary of the Air Force.

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

[FR Doc.72-20980 Filed 12-6-72;8:49 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

PART 122—ADDRESSES

PART 222—DEPARTMENTS

Miscellaneous Amendments

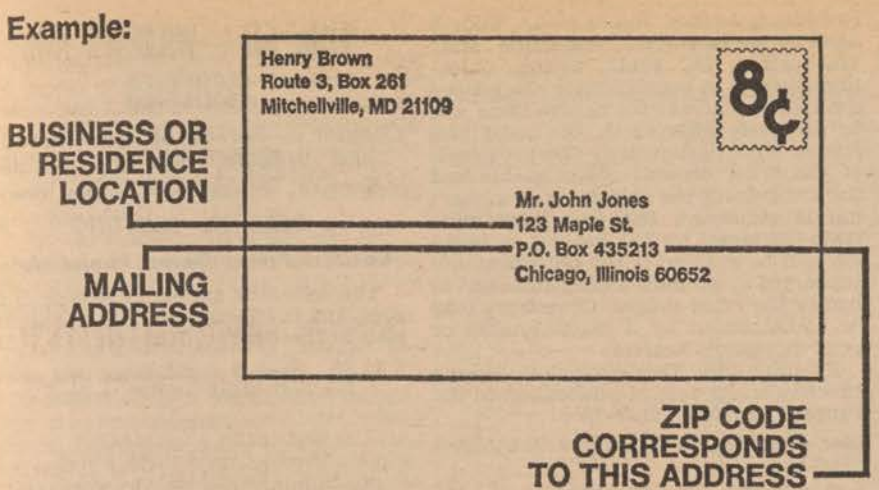
Regulations codified under § 122.1 are amended to permit optional inclusion of both street address and post office box number as part of an address.

1. In § 122.1 *General information* paragraph (f) is amended as set forth below, and paragraphs (g), (h), and (i) are amended by redesignating them as paragraphs (h), (i), and (j), respectively. A new paragraph (g) is added as set forth below.

§ 122.1 General information.

* * * * *

(f) Mail should be addressed to the specific place where the post office is to deliver it. Mail bearing both a street address and post office box number will be distributed for delivery in accordance with the address shown on the line immediately preceding the city and State of destination, unless the addressee has issued contrary instructions. The ZIP code shall correspond with the unit (box location or street address) to which delivery is to be effected. The requirements of this paragraph are also applicable to return addresses on mail matter.



(g) Mail bearing the names of more than one post office in either the return address or recipient's address is not acceptable for mailing.

* * * * *

Sections 222.1 and 222.4 relating to the organization of the Postal Service are amended to transfer general procurement policy authority over mail transportation contracts from the Logistics and Engineering Department to the Administration Department.

2. In § 222.1 *Support group*, subparagraph (2) of paragraph (b) is amended to read as follows:

§ 222.1 **Support group.**

* * * * *

(b) * * *

(2) *Administration Department.* The Administration Department is headed by the Assistant Postmaster General, Administration. It exercises policy authority over procurement activities in general, including those areas which are common to both mail transportation and other types of procurement, but excluding those issues which by reason of law or custom are unique to mail transportation contracting. It is responsible for the direction and review of all procurement activities in the field and at Headquarters except mail transportation contracting. It publishes and maintains a Postal Contracting Manual containing procurement regulations covering all procurement activities of the Postal Service. It manages Headquarters operating services, including printing, library, telephone switchboard, and Headquarters building maintenance and repair. It controls and administers supplies and inventories for the entire Postal Service.

* * * * *

3. In § 222.4 *Mail processing group*, subparagraph (3) of paragraph (c) is amended to read as set forth below.

§ 222.4 **Mail processing group.**

* * * * *

(c) * * *

(3) *Engineering and Logistics Department.* The Engineering and Logistics Department is headed by the Assistant Postmaster General, Engineering and Logistics. It exercises policy authority over procurement issues which by reason of law or custom are unique to mail transportation contracting. It has overall responsibility for the direction of all mail transportation within the Postal Service to foreign countries, and to and between military installations outside the United States, and is responsible for all types of engineering necessary to support present mail processing operations. It plans and develops a national mail transportation and routing system and monitors performance of each region with respect to achievement of transportation and processing standards and productivity goals. It is also responsible for budget review and approval for all mail processing and transportation activities not designated as part of the preferential or the bulk mail networks.

(39 U.S.C. 401, 404)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.72-20911 Filed 12-6-72;8:45 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

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

Dinitrophenolic Pesticides

Interim tolerances were established for two dinitrophenolic pesticide chemicals binapacryl and a mixture of 2,4-dinitro-6-octylphenyl crotonate and 2,6-dinitro-4-octylphenyl crotonate in the FEDERAL REGISTER of August 30, 1972 (37 F.R. 17554). It is concluded that these two pesticides should be added to the list of dinitrophenolic compounds in § 180.3(e)(6).

Furthermore, since tolerances for the two dinitrophenolic pesticides dinitro-*o*-cyclohexylphenol and dicyclohexylamine salt of dinitro-*o*-cyclohexylphenol have previously been revoked, it is concluded that these two pesticides should be deleted from these list of dinitrophenolic compounds in § 180.3(e)(6).

Therefore, § 180.3(e)(6) is revised to read as follows:

§ 180.3 **Tolerances for related pesticide chemicals.**

* * * * *

(e) * * *

(6) The following pesticides are members of the class of dinitrophenols:

Binapacryl (2-sec-butyl-4,5-dinitrophenyl-3-methyl-2-butenoate) and its metabolite 2-*sec*-butyl-4,6-dinitrophenol.

2,4-Dinitro-6-octylphenyl crotonate and 2,6-dinitro-4-octylphenyl crotonate, mixture of.

Dinoseb (2-*sec*-butyl-4,6-dinitrophenol) and its alkanolamine, ammonium, and sodium salts.

Since this order merely provides for categorization of compounds and the deletion of revoked compounds and since these matters are noncontroversial, notice, public procedure, and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (12-7-72).

Dated: November 29, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20977 Filed 12-6-72;8:45 am]

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

Benomyl

Five pesticide petitions (PPs 1F1033, 1F1145, 2F1192, 2F1212, and 2F1240) were filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the fungicide benomyl (methyl 1-butylcarbamoyl)-2-benzimidazolecarbamate) in or on the raw agricultural commodities peanut forage, peanut hay, and sugar beet tops at 15 parts per million; apples, crabapples, pears, and quinces at 7 parts per million; strawberries at 5 parts per million; celery at 3 parts per million; almond hulls and peanut hulls at 2 parts per million; nuts at 0.2 part per million (negligible residue); and in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 part per million.

Subsequently, the petitioner (a) withdrew the request for tolerances on crabapples and quinces and (b) proposed a lower tolerance of 1 part per million on almond hulls and a higher tolerance of

0.1 part per million on milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep. (For a related document, see this issue of the FEDERAL REGISTER, page 26006.)

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

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

2. The tolerances should be established for combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl); previously established tolerances should be revised to conform with this wording.

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

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.294 is revised to read as follows:

§ 180.294 Benomyl; tolerances for residues.

Tolerances are established for combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on raw agricultural commodities as follows:

15 parts per million in or on peanut forage, peanut hay, and sugar beet tops.

15 parts per million (from preharvest and/or postharvest application) in or on apricots, cherries, nectarines, peaches, and plums (including fresh prunes).

10 parts per million in or on mushrooms.

7 parts per million (from preharvest and/or postharvest application) in or on apples and pears.

5 parts per million in or on strawberries.

3 parts per million in or on celery.

2 parts per million in or on peanut hulls and snap beans (succulent).

1 part per million (from preharvest and postharvest application) in or on bananas, of which not more than 0.2 part per million (negligible residue) shall be present in the pulp after the peel is removed and discarded.

1 part per million in or on almond hulls, cucumbers, melons, summer squash, and winter squash.

0.2 part per million in or on peanuts and sugar beet roots.

0.2 part per million (negligible residue) in or on nuts.

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

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–7–72).

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

Dated: November 29, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–20978 Filed 12–6–72;8:45 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1, Amdt. 1–66]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Functions Regarding Motor Vehicle Information and Cost Savings Act of 1972

The purpose of this amendment is to delegate the functions vested in the Secretary by the Motor Vehicle Information and Cost Savings Act of 1972 (Public Law 92–513, 86 Stat. 947) to the National Highway Traffic Safety Administrator.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective November 28, 1972, § 1.51 of Part 1 of Title 49, Code of Federal Regulations, is amended by adding a new paragraph (f) to read as follows:

§ 1.51 Delegations to National Highway Traffic Safety Administrator.

* * * * *

(f) Carry out the functions vested in the Secretary by the Motor Vehicle Information and Cost Savings Act of 1972 (Public Law 92–513).

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on November 28, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.72–20971 Filed 12–6–72;8:50 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

Cabeza Prieta Game Range, Ariz.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (12–7–72).

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

ARIZONA

CABEZA PRIETA GAME RANGE

Public hunting of bighorn sheep on the Cabeza Prieta Game Range, Ariz. is permitted only on the area designated by signs as open to hunting. The bighorn sheep season is from December 2 through December 17, 1972, inclusive. The open bighorn sheep area, comprising 860,000 acres, is delineated on a map available at the game range headquarters, Yuma, Ariz., 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 bighorn sheep subject to the following special conditions:

(1) Bighorn sheep limited to 4 permits issued by the Arizona Game and Fish Department.

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 17, 1972.

GERALD E. DUNCAN,
Acting Refuge Manager, Cabeza Prieta Game Range, Yuma, Ariz.

NOVEMBER 29, 1972.

[FR Doc.72–21033 Filed 12–6–72;8:51 am]

PART 33—SPORT FISHING

Bosque del Apache National Wildlife Refuge, N. Mex.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (12–7–72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW MEXICO

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Sport fishing on the Bosque del Apache National Wildlife Refuge, N. Mex., is permitted in areas open to public use. These open areas, comprising 1,800 acres,

are delineated on maps available at refuge headquarters, San Antonio, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing is as follows:

All year round in Unit 18c and 18d.

April 1 to September 30 in all other waters located in the public use areas and designated as open.

(2) Fishing hours: Dawn till dark.

(3) The use of boats or floating devices is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 31, 1974.

RICHARD W. RIGBY,
Refuge Manager, Bosque del Apache National Wildlife Refuge, San Antonio, N. Mex.

NOVEMBER 29, 1972.

[FR Doc.72-20972 Filed 12-6-72;8:50 am]

Title 6—ECONOMIC STABILIZATION

Rulings—Internal Revenue Service, Department of the Treasury

[Price Commission Ruling 1972-282]

PRICE COMMISSION RULINGS UPDATE AS OF SEPTEMBER 30, 1972

Price Commission Ruling

The purpose of this ruling is to provide guidance as to the applicability, to transactions occurring on or before September 30, 1972, of all Price Commission rulings which were published in the FEDERAL REGISTER on or before September 30, 1972. There may be changes occurring after September 30, 1972, which have not been noted in this ruling which may make certain rulings inapplicable to transactions occurring after September 30, 1972.

The ruling indicates whether a particular ruling can be relied upon for current transactions or, if it cannot, the last date it can be relied upon. A ruling which is only "partly" applicable to current transactions is so indicated. No limiting date is provided if the ruling is still currently applicable in some respects. No attempt has been made to specify in exactly what ways a particular ruling may not be currently applicable. In all cases the "Comments" portion of the ruling should be consulted to ascertain whether subsequent rulings or regulations have affected the ruling.

This ruling supersedes Price Commission Ruling 1972-239. 37 F.R. 18337 (1972).

The number in the citation column of this ruling refers to the page on which a particular ruling was originally published in the FEDERAL REGISTER (volume 36 for 1971 rulings or, volume 37 for all other rulings).

Ruling No.	Citation	Applies to transactions after—	Can it be applied to current transactions?	Does not apply to transactions after—	Comments[1]
1971-1	23109	Nov. 13, 1971	No	Jan. 26, 1972	L
1971-2	23108	do	No	Jan. 26, 1972	L
1971-3	23661	do	Yes		M (PC-72-12)
1971-4	24077	do	Partly		L
1971-5	24232	do	Yes		U
1972-1	247	do	Partly		L
1972-2	247	do	Partly		L
1972-3	247	do	Yes		A
1972-4	248	do	No	Nov. 13, 1971	O (CLC-72-5)
1972-5	248	do	Partly		A, M(PC-72-165)
1972-6	762	do	Yes		A
1972-7	762	do	Yes		A
1972-8	763	do	Yes		A
1972-9	763	do	Yes		A
1972-10	763	do	Yes		A
1972-11	764	do	No	Sept. 17, 1972	L
1972-12	764	do	Yes		U
1972-13	765	do	Yes		A
1972-14	765	do	Yes		A
1972-15	765	Dec. 16, 1971	Yes		A
1972-16	765	Nov. 13, 1971	Yes		A
1972-17	766	do	Yes		A
1972-18	766	do	Yes		A (PC-72-213)
1972-19	766	do	Yes		U, M (PC-72-138)
1972-20	767	do	Partly		A, M (PC-72-89)
1972-21	767	do	Partly		A
1972-22	767	do	Yes		A
1972-23	1411	do	Yes		A, M (PC-72-203)
1972-24	1411	do	Partly		L
1972-25	1411	do	No	Apr. 18, 1972	A
1972-26	1411	do	Yes		A
1972-27	1412	do	Yes		A
1972-28	1412	do	Yes		A
1972-29	2989	Dec. 29, 1971	Yes		A
1972-30	2990	Nov. 13, 1971	Yes		A
1972-31	2990	Dec. 13, 1971	Yes		A
1972-32	2990	Dec. 29, 1971	Yes		A
1972-33	2990	do	Yes		A, M (PC-72-223)
1972-34	2989	Nov. 13, 1971	Yes		A
1972-35	2988	do	Yes		A, M (PC-72-206)
1972-36	2990	do	Partly		A
1972-37	2988	do	Yes		U
1972-38	2989	Aug. 15, 1971	Yes		U
1972-39	2991	do	Yes		U
1972-40	3061	Dec. 22, 1971	Yes		A
1972-41	3061	do	Yes		A
1972-42	3061	do	Yes		A
1972-43	3062	do	Yes		A
1972-44	3062	do	Yes		A
1972-45	3063	do	Yes		A
1972-46	3063	Nov. 13, 1971	No	Feb. 24, 1972	O (PC-72-112)
1972-47	3063	do	Yes		A
1972-48	3451	Dec. 29, 1971	Yes		A
1972-49	3451	Nov. 13, 1971	Yes		A
1972-50	3451	Jan. 27, 1972	Yes		U
1972-51	3451	Nov. 13, 1971	Yes		A
1972-52	3452	Dec. 29, 1971	Yes		A
1972-53	3452	Nov. 13, 1971	Yes		U
1972-54	3452	Dec. 29, 1971	Yes		A
1972-55	3453	do	Yes		A
1972-56	3453	do	Yes		A
1972-57	3453	do	Yes		A, M (PC-72-128)
1972-58	3454	do	Yes		A
1972-59	3454	do	Yes		A
1972-60	3454	Nov. 13, 1971	Yes		A
1972-61	3454	do	Yes		A
1972-62	3770	do	No	Dec. 28, 1971	L
1972-63	3770	Dec. 29, 1971	No	Mar. 30, 1972	L
1972-64	3771	Nov. 13, 1971	Yes		A
1972-65	3771	do	No	Dec. 28, 1971	L
1972-66	3771	do	Yes		A
1972-67	3996	do	No	Jan. 26, 1972	L
1972-68	3996	do	No	do	L
1972-69	3996	do	Yes		A
1972-70	3997	do	No	Dec. 28, 1971	L
1972-71	3997	do	No	Nov. 13, 1971	O (PC-72-133)
1972-72	3997	do	Yes		A
1972-73	3997	do	Yes		A
1972-74	3998	do	Yes		A
1972-75	4099	Dec. 29, 1971	Partly		L, M (PC-72-204)
1972-76	4099	Nov. 13, 1971	Yes		A
1972-77	4368	do	No	Dec. 28, 1971	L
1972-78	4369	do	No	do	L
1972-79	4369	do	No	do	L
1972-80	4369	do	Yes		A
1972-81	4369	do	Yes		A
1972-82	4370	do	Yes		A
1972-83	4370	Dec. 29, 1971	No	July 4, 1972	L
1972-84	4370	Nov. 13, 1971	No	Nov. 13, 1971	O (PC-72-244)
1972-85	4371	do	Yes		A
1972-86	4371	do	No	Nov. 13, 1971	O (PC-72-215)
1972-87	4921	Dec. 29, 1971	Yes		A
1972-88	5062	do	Yes		A
1972-89	5062	Nov. 13, 1971	Yes		A
1972-90	5063	Dec. 29, 1971	Yes		A
1972-91	5063	do	Partly		A, M (PC-72-216)
1972-92	5063	do	Yes		A, M (PC-72-125)
1972-93	5064	do	Yes		A
1972-94	5064	Feb. 3, 1972	No	May 22, 1972	L
1972-95	5064	Nov. 13, 1971	Yes		A
1972-96	5064	Dec. 29, 1971	No	July 4, 1972	L
1972-97	5065	do	Yes		A
1972-98	5065	do	No	July 4, 1972	L, M (PC-72-234)
1972-99	5065	do	No	July 4, 1972	L
1972-100	5066	do	Yes		A
1972-101	5066	Nov. 13, 1971	Yes		A

See footnote at end of table.

Ruling No.	Citation	Applies to transactions after—	Can it be applied to current transactions?	Does not apply to transactions after—	Comments [1]
1972-102	5645	do	Yes		A
1972-103	5646	do	Yes		A
1972-104	5646	do	No	Dec. 28, 1971	L
1972-105	5646	do	Yes		A
1972-106	5647	do	No	Dec. 28, 1971	L
1972-107	5647	Dec. 29, 1971	Yes		A
1972-108	5648	Nov. 13, 1971	Yes		A
1972-109	5648	Dec. 29, 1971	Yes		A
1972-110	5648	do	Yes		A
1972-111	5649	Nov. 13, 1971	Yes		A
1972-112	5763	Feb. 24, 1972	Yes		A
1972-113	6120	Dec. 29, 1971	Yes		A
1972-114	6120	Nov. 13, 1971	Yes		U
1972-115	6120	do	Yes		U
1972-116	6121	Dec. 29, 1971	Yes		A
1972-117	6598	Nov. 13, 1971	Yes		A
1972-118	6599	Feb. 3, 1972	Yes		A
1972-119	7349	Dec. 29, 1971	Yes		A
1972-120	7349	do	Yes		A
1972-121	7349	Nov. 13, 1971	Yes		A
1972-122	7349	do	Yes		A
1972-123	7350	do	Yes		A
1972-124	7350	do	Yes		A
1972-125	7350	Dec. 29, 1971	Yes		A
1972-126	7350	Nov. 13, 1971	Yes		A, M (PC-72-225)
1972-127	7351	do	Yes		A
1972-128	7718	Dec. 29, 1971	Yes		A
1972-129	7718	do	Yes		A, M (PC-72-233)
1972-130	7719	do	Yes		A
1972-131	7720	Nov. 13, 1971	Yes		A
1972-132	7720	Feb. 3, 1972	Yes		A
1972-133	8001	Nov. 13, 1971	Yes		A
1972-134	7996	do	Yes		A
1972-135	7997	do	No	Dec. 28, 1971	L
1972-136	7998	do	Yes		A
1972-137	7998	Mar. 9, 1972	Partly		L
1972-138	7998	Nov. 13, 1971	Partly		U, M (PC-72-213)
1972-139	7999	do	Yes		A
1972-140	7999	Dec. 29, 1971	Yes		A
1972-141	8000	Nov. 13, 1971	Yes		A
1972-142	8000	do	Yes		A
1972-143	8000	do	Yes		A
1972-144	8403	Dec. 29, 1971	Yes		A
1972-145	8403	Jan. 27, 1972	Yes		A
1972-146	8699	Mar. 9, 1972	Yes		A
1972-147	8403	Nov. 13, 1971	Yes		A
1972-148	8699	do	Yes		A
1972-149	8700	do	Yes		A
1972-150	8700	do	Yes		A
1972-151	8562	do	Yes		A
1972-152	8562	do	Yes		A
1972-153	8563	do	Yes		A
1972-154	8955	Dec. 29, 1971	No	Aug. 22, 1972	O (PC-72-222)
1972-155	9351	do	No	July 4, 1972	L
1972-156	9351	do	Yes		A
1972-157	9351	do	Yes		A
1972-158	9352	do	Yes		A
1972-159	9352	do	Yes		A
1972-160	9406	do	Yes		A
1972-161	9406	do	Yes		A
1972-162	9407	do	Yes		A
1972-163	9407	do	Yes		A, M (PC-72-235)
1972-164	9407	do	Yes		A
1972-165	9640	Nov. 13, 1971	Partly		L
1972-166	9640	Dec. 29, 1971	Yes		A
1972-167	9640	do	Yes		A
1972-168	9640	Nov. 13, 1971	Yes		A
1972-169	9641	Jan. 27, 1972	Yes		A
1972-170	10519	Mar. 9, 1972	Yes		A
1972-171	10519	Jan. 27, 1972	Yes		A
1972-172	9787	Dec. 29, 1971	No	Aug. 14, 1972	L
1972-173	9787	Nov. 13, 1971	Yes		A
1972-174	9787	do	Yes		A
1972-175	9788	do	Yes		A
1972-176	10087	Dec. 29, 1971	No	July 4, 1972	L
1972-177	10087	Nov. 13, 1971	Yes		A
1972-178	10519	do	Yes		A
1972-179	10962	do	Yes		A
1972-180	11194	Dec. 29, 1971	Yes		A
1972-181	11194	do	Yes		A
1972-182	11695	do	Yes		A
1972-183	11696	Nov. 13, 1971	Yes		A
1972-184	11696	Aug. 15, 1971	Yes		U
1972-185	11981	Nov. 13, 1971	Yes		U
1972-186	11981	Mar. 9, 1972	Yes		A
1972-187	11981	Jan. 19, 1972	Yes		A
1972-188	11981	Dec. 29, 1971	Yes		A
1972-189	12164	do	No	July 4, 1972	L
1972-190	13113	Nov. 13, 1971	Yes		A
1972-191	13113	Dec. 29, 1971	Yes		A
1972-192	13114	do	Yes		A
1972-193	13114	Nov. 13, 1971	Yes		A
1972-194	13114	Feb. 3, 1972	Yes		U
1972-195	13115	Dec. 29, 1971	No	July 4, 1972	L
1972-196	13115	Nov. 13, 1971	Yes		A
1972-197	13116	do	Yes		A
1972-198	13116	Dec. 29, 1971	Yes		A
1972-199	13116	May 2, 1972	Yes		A
1972-200	13275	Nov. 13, 1971	Yes		A
1972-201	13277	Dec. 29, 1971	Yes		A
1972-202	13277	do	Yes		A
1972-203	13278	Aug. 15, 1971	Yes		U
1972-204	13648	Dec. 29, 1971	Yes		A
1972-205	13648	do	Yes		A
1972-206	13192	Nov. 13, 1971	Yes		A
1972-207	13649	do	Yes		A
1972-208	13649	Dec. 16, 1971	Yes		U
1972-209	13649	Dec. 29, 1971	Yes		A
1972-210	13650	Nov. 13, 1971	No	Dec. 28, 1971	L
1972-211	13650	do	Yes		A
1972-212	13650	Dec. 29, 1971	Partly		L
1972-213	13651	Nov. 13, 1971	Yes		A
1972-214	13651	do	Yes		A
1972-215	13651	do	Yes		A
1972-216	13652	do	Yes		A
1972-217	14620	Dec. 29, 1971	No	July 4, 1972	L
1972-218	14620	do	Yes		A
1972-219	15012	do	Yes		A
1972-220	15943	do	Yes		A
1972-221	16557	Nov. 13, 1971	Yes		A
1972-222	16986	do	Yes		A
1972-223	17428	do	No	Sept. 20, 1972	L
1972-224	17428	July 5, 1972	Yes		U
1972-225	17428	Nov. 13, 1971	Yes		A
1972-226	17429	Dec. 29, 1971	Yes		A
1972-227	17430	May 2, 1972	Yes		A
1972-228	17431	Dec. 29, 1971	Yes		A
1972-229	17429	do	Yes		A
1972-230	17429	Nov. 13, 1971	Yes		A
1972-231	17430	do	Yes		A
1972-232	17431	do	Yes		A
1972-233	17429	Dec. 29, 1971	Yes		A
1972-234	18179	July 5, 1972	Yes		U
1972-235	18179	Feb. 23, 1972	Yes		A
1972-236	18179	Nov. 13, 1971	Yes		A
1972-237	18180	do	Yes		A
1972-238	18180	do	Yes		U
1972-239	18337	Aug. 15, 1971	No	June 30, 1972	O (PC-72-P-282)
1972-240	18549	Nov. 13, 1971	Yes		A
1972-241	18611	do	Yes		A
1972-242	20103	do	Yes		A
1972-243	20103	do	Yes		A
1972-244	20104	do	Yes		A

[1] Legend:

U (Unchanged) Ruling and economic stabilization regulation section(s) interpreted both remain unchanged since their origin with ruling in full effect.

A (Amended) The section(s) of the regulations interpreted by the ruling has been amended since the effective date specified in col. 3 of this ruling, but the ruling would apply to the section(s) as amended as of Sept. 30, 1972.

L (Limited) The regulations section(s) interpreted by the ruling has been amended, deleted, or a new section(s) added with the result that the ruling is either obsolete or applicable only to the extent the old section(s) is still effective.

M (Modified) Ruling modified or clarified by a later ruling. Symbols within parenthesis refer to modifying or clarifying ruling.

O (Overruled) Ruling overruled or superseded by a later ruling. Symbols within parenthesis refer to overruling or superseding ruling.

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

Dated: December 1, 1972.

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

Approved: December 1, 1972.

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

[FR Doc.72-20903 Filed 12-6-72;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX REGULATIONS

Real Estate Investment Trusts

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by January 6, 1973. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by January 6, 1973. In such case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to clarify the Income Tax Regulations under section 856 of the Internal Revenue Code of 1954 (26 CFR Part 1), such regulations are amended as follows:

PARAGRAPH 1. Paragraph (d)(4) of § 1.856–1 is revised to read as follows:

§ 1.856–1 Definition of real estate investment trust.

* * * * *

(d) *Rules applicable to status requirements.* * * *

(4) *Property held for sale to customers.* A real estate investment trust may not hold any property primarily for sale to customers in the ordinary course of its trade or business. Whether property is held for sale to customers in the ordinary course of the trade or business of a real estate investment trust depends upon the facts and circumstances in each case. The application of the rules provided by this subparagraph may be illustrated by the following examples:

Example (1). Trust M, which otherwise qualifies as a real estate investment trust, has in its portfolio a construction loan for a condominium (a single multiunit dwelling). The loan originated with the trust and was made in accordance with prudent lending practices. The security for the loan is a mortgage on the condominium. After completion of the construction of the condominium, the debtor defaults on the loan and the trust becomes the owner of the condominium as a result of a foreclosure sale. The condominium is listed with a broker for sale as an undivided unit. The condominium is sold to an unrelated party within a reasonable period of time after foreclosure of the mortgage. Assuming that in all other respects the condominium would not be considered as held primarily for sale to customers in the ordinary course of the trust's trade or business, solely for purposes of section 856(a)(4) and this section, the trust is not considered to have held the condominium primarily for sale to customers in the ordinary course of its trade or business merely because of the circumstances under which the foreclosure was made and the property was sold.

Example (2). The facts are the same as in Example (1), except that, at the time the trust obtains ownership of the condominium, the construction of the condominium is 80 percent completed (determined on the basis of a comparison of actual construction costs at such time with expected total construction costs) and that the trust employs an unrelated contractor to complete construction of the condominium. Solely for purposes of section 856(a)(4) and this section, the trust is not considered to have held the condominium primarily for sale to customers in the ordinary course of its trade or business merely because of the circumstances under which the foreclosure was made and the property was sold.

* * * * *

PAR. 2. Paragraph (c)(2)(ii) of § 1.856–2 is revised to read as follows:

§ 1.856–2 Limitations.

* * * * *

(c) *Gross income requirements.* * * *

(2) * * *

(ii) *Interest.* In computing the percentage requirements in section 856(c)(2)(B) and (3)(B) there shall be included as interest only the amount which constitutes interest for the loan or forbearance of money. Thus, for example, a fee imposed upon a borrower which is in fact a charge for a service in addition to the charge for the use of borrowed money shall not be included as interest. In the case of loans made after December 7, 1972, an amount received or accrued with respect to an obligation shall not be included as interest for purposes of section 856(c)(2)(B) or (3)(B) if the determination of such amount depends in whole or in part on the income or profits of any person. For purposes of the preceding sentence, a loan is considered to be made if there is a binding commitment to make a loan, but not if the transaction is merely in the negotiation stage. To the extent limited by this subdivision, the 90-percent requirement in section 856(c)(2)(B) permits the inclusion of interest generally, while the 75-percent requirement in section 856(c)(3)(B) includes interest only to the extent that it relates to obligations secured by mortgages on real property. Where a mortgage covers both real and other property an apportionment of the interest income must be made for purposes of the 75-percent requirement. For purposes of such requirement, the apportionment is made as follows:

(*a*) If the loan value of the real property is equal to or exceeds the amount of the loan and is equal to or exceeds the loan value of the other property, then the entire interest income shall be apportioned to the real property.

(*b*) If the loan value of the other property exceeds both the amount of the loan and the loan value of the real property, then the entire interest income shall be apportioned to the other property.

(c) If the amount of the loan exceeds either the loan value of the real property or the total loan value of the other property, or both such values, then the interest income shall be apportioned between the real property and other property on the basis of their respective loan values.

For purposes of this subdivision, the term "other property" does not include property to the extent that its value is determined by reference to the value of property which is security for the obligation. For example, where a real estate investment trust makes a loan to a corporation which is secured by a mortgage on real property owned by the corporation and a pledge of the stock of such corporation, for purposes of this subdivision, the term "other property" does not include the stock of the corporation to the extent of the loan value of such real property.

* * * * *

PAR. 3. Paragraph (d) of § 1.856–3 is revised to read as follows:

§ 1.856–3 Definitions.

* * * * *

(d) *Real property.* The term "real property" means land or improvements thereon, such as buildings or other inherently permanent structures thereon (including items which are structural components of such buildings or structures). In addition, the term "real property" includes interests in real property. Local law definitions will not be controlling for purposes of determining the meaning of the term "real property" as

used in section 856 and the regulations thereunder. The term includes, for example, the wiring in a building, plumbing systems, central heating or central air-conditioning machinery, built-in air-conditioning units, built-in stoves, built-in refrigerators, permanently installed carpeting, pipes or ducts, elevators or escalators installed in the building, or other items which are structural components of a building or other permanent structure. The term does not includes assets accessory to the operation of a business, such as machinery, printing presses, transportation equipment which is not a structural component of the building, office equipment, refrigerators and other appliances which are not built-in, "window" air-conditioning units, grocery counters, furnishings of a motel, hotel, or office building, etc., even though such items may be termed fixtures under local law.

* * * * *

PAR. 4. Paragraphs (b)(1), (b)(3)(i)(b), and (b)(3)(i)(c) of § 1.856-4 are revised to read as follows:

§ 1.856-4 Rents from real property.

* * * * *

(b) *Amounts not includible as rent.* * * *

(1) *Where amount of rent depends on income or profits of any person.* Any amount received or accrued, directly or indirectly, with respect to any real property if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property. However, any amount so accrued or received shall not be excluded from the term "rents from real property" solely by reason of being based on a fixed percentage or percentages of receipts or sales (whether or not receipts or sales are adjusted for returned merchandise, or Federal, State, or local sales taxes). Thus, for example, "rents from real property" would include rents where the lease provides for differing percentages of receipts or sales from different departments or from separate floors of a retail store so long as each percentage is fixed at the time of entering into the lease. However, where a trust leases real property to a tenant under terms other than solely on a fixed sum rental (i.e., for example, a percentage of the tenant's gross receipts), and the tenant subleases all or a part of such property under an agreement which provides for a rental based in whole or in part on the income or profits of the sublessee, the entire amount of the rent received by the trust from the prime tenant with respect to such property is disqualified as "rents from real property." "Rents from real property" are not based in whole or in part on the income or profits derived by any person from such property if the amount of the rent is based on a fixed percentage or percentages of receipts or sales reduced by permissible escalation receipts. For purposes for this subparagraph, the term "permissible escalation receipts" means amounts received by reason of an agreement that rent shall be increased to reflect all or a portion of an increase in those costs which relate to the rental property and, in the case of a cost incurred for services, increases in costs for services which the real estate investment trust is permitted to directly furnish or render to the tenants of the property under subparagraph (3)(i)(b) of this paragraph. For purposes of the preceding sentence, costs which relate to the property include (but are not limited to) real estate taxes, personal property taxes, property insurance, and maintenance expenses, and costs which do not relate to the property) include (but are not limited to) compensation to managerial and clerical personnel, office supplies, and income taxes. Where in accordance with the terms of an agreement an amount received or accrued as rent for the taxable year includes both a fixed rental and a percentage of the lessee's income or profits in excess of a specific amount (usually determined before deducting the fixed rental and sometimes called "overage rents"), neither the fixed rental nor the additional amount will qualify as "rents from real property." However, where the amount received or accrued for the taxable year under such an agreement includes only the fixed rental, the determination of which does not depend in whole or in part on the income or profits derived by the lessee, such amount may qualify as "rents from real property." Similarly, where the amount received or accrued as rent for the taxable year consists, in whole or in part, of a percentage of the lessee's receipts or sales in excess of a specific amount which amount does not depend in whole or in part on the income or profits derived by the lessee, such amount may qualify as "rents from real property." Thus, an amount received or accrued as rent which consists of a fixed rental plus a percentage of the lessee's receipts or sales in excess of a specific amount may qualify as "rents from real property." In any event, an amount will not qualify as "rents from real property" if, considering the lease and all the surrounding circumstances, the arrangement does not conform with normal business practices but is in reality used as a means of basing the rent on income or profits. The application of the rules provided in this subparagraph may be illustrated by the following example:

Example. Trust R, which otherwise qualifies as a real estate investment trust, leases real property to PT, a prime tenant. PT subleases the real property to ST, a subtenant. The lease between PT and ST provides for rent equal to a fixed dollar amount plus an additional amount equal to any increase in property taxes, property insurance, and clerical salaries of PT above specified dollar amounts. The lease between R and PT provides for a rent equal to a fixed percentage of gross receipts of PT excluding all gross receipts attributable to rents measured by increased costs of PT. The rent received by R from PT does not qualify as "rents from real property" because the amounts excluded from gross receipts of PT include amounts which are not "permissible escalation receipts".

* * * * *

(3) *Trust furnishing services or managing property through an independent contractor—(i) In general* * * *

(b) *Customary services for which no separate charge is made.* Under section 856(d)(3), the trust (through its trustees or its own employees) may not directly furnish or render any services to the tenants of its property and may not directly manage or operate the property. However, for purposes of part II, subchapter M, chapter 1 of the Code, an amount will not be disqualified as "rent" if services, such as are usually or customarily furnished or rendered in connection with the mere rental of real property, are furnished or rendered to tenants of the property through an independent contractor. The independent contractor must not, however, be an employee of the trust (i.e., the manner in which he carries out his duties as independent contractor must not be subject to the control of the trust). The supplying of water, heat, air conditioning, and light; the cleaning of windows, public entrances, exits, and lobbies; the performance of general maintenance and other janitorial services; the collection of trash; and the furnishing of elevator service, telephone answering service, incidental storage space, laundry equipment, swimming facilities and other recreation facilities which are integral parts of multiple occupancy real property provided primarily to the tenants of such real property where no services are performed other than providing a lifeguard and sanitation (but only to the extent that such recreation facilities are actually used by such tenants or their guests), a parking facility which is an integral part of multiple occupancy real property provided primarily for the convenience of the tenants of such real property where attendants perform no services other than the parking of vehicles (but only to the extent that such parking facility is actually used by such tenants or their guests or their customers), and watchman or guard services, are examples of services which are customary or incidental to the mere rental of multiple-occupancy real estate. Although the cost of such incidental services may be borne by the trust, the services must, nevertheless, be furnished or rendered through an independent contractor. Furthermore, the facilities through which such services are furnished must be maintained and operated by an independent contractor. For example, if a heating plant is located in the building, it must be maintained and operated by an independent contractor. Where no separate charge is made for such services, no apportionment is required to be made between rents from real property and compensation for these services.

(c) *Services for which a separate charge is made.* Under section 856(d)(3), the trust may not derive or receive any income from an independent contractor who furnishes or renders services to the tenants of the trust property or who manages or operates such property, regardless of the source from which

such income was derived by the independent contractor. To the extent that services, other than those usually or customarily rendered in connection with the mere rental of real property, are rendered to the tenants of the property by the independent contractor, the cost of such services must be borne by the independent contractor, a separate charge must be made therefor, and the amount thereof must be received and retained by the independent contractor; no amount attributable to such services shall be included in the gross income of the trust. In any event, the independent contractor must be adequately compensated for such services. Also, if a separate charge is made for the customary services described in (*b*) of this subdivision (i), such charge must be made and the amount thereof must be received and retained, by the independent contractor rather than by the trust. The furnishing of hotel, maid, boarding house, motel, laundry, or warehouse services are examples of services which are not usually or customarily furnished or rendered in connection with the mere rental of real estate, and the trust must not receive any income which is attributable to the furnishing or rendering of such services to tenants of the trust property. Furthermore, where electric current is purchased and then sold to the tenants at a price in excess of the purchase price (for example, submetered), such purchase and sale must be made by the independent contractor and no income therefrom may inure, directly or indirectly, to the trust.

* * * * *

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DEPARTMENT OF THE INTERIOR

Office of Oil and Gas

[32A CFR Ch. X]

[Oil Import Reg. 1 (Rev. 5)]

CRUDE AND UNFINISHED OILS BASED UPON ESTIMATED INPUTS

Proposed Allocations and Change in Allocation Method

Correction

In F.R. Doc. 72-20846 appearing at page 25722 of the issue for Saturday, December 2, 1972, in the last paragraph of the first column on page 25722 the figure "2" which appears in parentheses in the third line should read "20".

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1133]

[Docket No. AO 275-A24]

MILK IN INLAND EMPIRE MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Inland Empire Marketing Area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Spokane, Wash., on March 14-16, 1972, pursuant to notice thereof issued on February 25, 1972 (37 F.R. 4264).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on September 6, 1972 (37 F.R. 18372), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

INDEX OF CHANGES

With respect to Issue No. 1:

1. Under section (b) "Representative period" the second paragraph is revised.

2. Under section (e) "Annual update of production history" the third paragraph is revised and one new paragraph is added after the third paragraph.

3. Under section (f) "New producers" the third paragraph is revised and two new paragraphs are added after the third paragraph.

4. Under section (g) "Allocation of Class I bases" one new paragraph is added after the fourth paragraph.

5. Under section (h) "Base transfers" four new paragraphs are added after the 13th paragraph, four new paragraphs are added after the 14th paragraph, and two new paragraphs are added after the 18th paragraph.

6. Under section (i) "Provisions for alleviation of hardship and inequity" one new paragraph is added after the fifth paragraph. With respect to Issue No. 2:

1. Two new paragraphs are added at the end of the section. With respect to Issue No. 3(e):

1. One new paragraph is added at the end of the section.

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

1. Class I base plan.

2. Class III milk price.

3. Administrative and conforming changes.

(a) Eliminating possible double charges.

(b) Limit location adjustment credit.

(c) Handler option on farm bulk tank milk.

(d) Price quotation for butterfat differentials.

(e) Revised format.

FINDINGS AND CONCLUSIONS

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

1. *Class I base plan.* Producers supplying pool plants regulated by the Inland Empire Federal milk 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. The Class I base plan provided herein generally follows the form of base plan proposed, and modified, by the Inland Empire Class I Base Plan Committee.

The purpose of the Class I base plan is to provide a method for producers under the Inland Empire milk order individually to adjust production to meet the Class I needs of the market. Representatives of the Inland Empire Class I Base Plan Committee presented most of the testimony in favor of the plan.

Under the Agricultural Act of 1970 appropriate flexibility is authorized in a Class I base plan. The plan proposed herein is designed to adapt to changing supply-demand conditions. Under it new producers coming on the market can earn, over a reasonable period of time, bases comparable to those of other producers. Also, it will provide a means whereby any producer who wants to increase his production to earn additional base may do so. It further provides that a baseholding producer who reduces his marketings will not be adversely affected as long as he markets a volume of milk at least equal to his Class I base.

(a) *Summary of the plan.* Class I bases would be assigned to eligible producers on the effective date of the plan and they would be updated on February 1 of each year thereafter.

The total Class I base to be assigned would equal 120 percent of the average daily producer milk used in Class I in the market during the immediately preceding calendar year. For the purpose of allocating Class I bases to producers, such quantity would be prorated to the production history of each producer.

New producers coming on the market would be assigned Class I bases (or base milk) at a time and in a manner depending on the circumstances of their entry into the market. The various categories of new producers and the manner in which their base assignments would be made are specified in subsequent findings and conclusions.

(b) *Representative period.* Concerning a representative period and computation of production history, the Agricultural Act of 1970 provides:

> (f) a further adjustment, equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk, which may be adjusted to reflect the utilization of producer milk by all handlers in any use classification or classifications, during a representative period of 1 to 3 years, which will be automatically updated each year.

The representative period provided herein for the computation of production histories and Class I bases would be a 3-year period consisting of 3-calendar-year periods updated on February 1 of each year. The production of each producer to be credited to his production history each year would be his average daily deliveries during the market's 4

months of lowest production in each such 12-month period. These are the months in which Class I sales by handlers regulated by the Inland Empire Federal order are likely to be the highest relative to the market supply.

The representative period for the computation of initial production histories and Class I bases is the 12-month period extending from January 1972 through December 1972. On February 1 of each succeeding year the preceding 12-month period (calendar year) would be added to the representative period until a 3-year period is accumulated. Thereafter, a 3-year rolling average would be used, and production data in the most recent period would be added and the oldest data would be dropped.

It was claimed in testimony of producer representatives that using the market's four lowest production months of a calendar year would have advantages over using each full year or named months in each year. Proponent contended that under the proposed plan the individual producer, not knowing in which months he will earn base, will have an incentive to level his production throughout the year as well as to hold down his excess milk. When producers know in advance the months in which they will earn base, a strong incentive exists to increase production in these months over market needs even if such period historically has been the low production period of the year for the market.

(c) *Production history period.* The base plan basically provides for a 3-year rolling average to determine the production history of each producer for use in assigning him a Class I base. In each such calendar year, the average daily deliveries of the producer during the market's 4 months of lowest production would be used to establish his production history base for that year. His 3-year production history base would be the simple average of his daily average producer milk deliveries during the market's 4 months of lowest production in each of the 3 years.

In addition to providing a method for each producer to share in the Class I milk of the market in relation to his deliveries over a period of 3 years, the order must provide for the assignment of bases to producers who are not assigned an initial production history base on the effective date of this Class I base plan.

Under the plan, a producer with a 1-year production history established after the effective date of the plan would receive a production history base equal to 60 percent of his average daily deliveries during the applicable months of his first year of production, and a producer with a 2-year production history would receive a production history base equal to 30 percent of his average daily deliveries during the applicable months.

In view of the current and anticipated supply-demand situation in the Inland Empire market, the percentage reduction figures adopted herein for use in updating production histories will contribute to orderly and efficient marketing conditions.

The bases assigned to new dairy farmers should not be so great as to provide an incentive for substantial numbers of new dairy farmers to become producers on the market. The credit given to partial production history under the plan proposed herein will contribute to orderly and efficient marketing conditions by providing a reasonable opportunity for new production units to be established without disrupting the market for established producers.

The Agricultural Act of 1970 provides that a new dairy farmer, upon becoming a producer under the order, will be assigned a base consistent with the supply and demand conditions of the market, the development of orderly and efficient marketing conditions and the interests of producers under the order, other dairy farmers and the consuming public. The Act further provides that bases so assigned shall, for a period of not more than 3 years, be reduced by not more than 20 percent. Provisions adopted under such authority are discussed further in subsequent findings.

(d) *Initial production history.* Following the adoption of the base plan, the market administrator will compute and assign a production history for each eligible producer. The production history for each producer will be computed on a daily average basis.

Producers delivering milk during the market's 4 months of lowest production during the calendar year January through December 1972 would be assigned an initial production history base.

A producer who did not deliver milk during the market's 4 months of lowest production in 1972, but who delivered milk on or before July 1, 1972, and continuously until the effective date of the Class I base plan, would be assigned a production history based on his first 4 full months of delivery, seasonally adjusted to reflect the 4 months of lowest production in 1972. This special production history period will facilitate the assignment of base to producers during the transition phase to the Class I base plan adopted herein.

Producers who begin delivering milk after July 1, 1972, would not be assigned an initial Class I base. Such producers will be allocated Class I base milk in accordance with the provisions applicable for new producers described in subsequent findings.

Since the purpose of the Class I base plan is to allow each producer to share in the Class I milk of the market in proportion to his marketings in a representative period, after the effective date of the plan the producer must establish a full 3-year production history to enjoy the full benefits of the plan.

(e) *Annual update of production history.* Following the computation of an initial production history on the effective date of the Class I base plan, the market administrator would update the production history for each eligible producer on February 1 of each year thereafter.

The basic factors to be considered in updating the producer's production history base for the first time on February 1, 1974 may be divided into two categories. These are: (1) The production history base previously assigned to him on the effective date of the plan, subject to adjustments for transfers, underdelivery, and hardship, and (2) his production during the most recent production history period (4 months of lowest production in the preceding calendar year).

The recommended decision provided that producers assigned an initial production history base on February 1, 1973, would be assigned a 2-year production history base on February 1, 1974. It provided that if producers increased their production during the 1973 production history period they would be credited with one-half the amount of increase.

In exceptions, proponent objected to crediting producers with one-half of their production increase during the 1973 production history period on February 1, 1974. They contended that such provision would not implement the 3-year rolling average concept embodied in the base plan. The base plan provides credit for one-third of such production increases on all updatings after 1974. In providing the same adjustment on February 1, 1974, the base plan will not encourage producers to increase production during 1973, and will assure uniform application of the 3-year rolling average concept. It is concluded that producers should be assigned no more than one-third of their production increase during the 1973 production history period. Producers not assigned an initial production history base will be afforded similar treatment when establishing a 2-year production history base.

Similarly, on February 1, 1975, a producer assigned a 2-year production history base on February 1, 1974, who increased his production during the 1974 production history period, would have his production history base increased by one-third of the amount of the increase in production above his previously assigned production history. Such production history would be effective from February 1975 through January 1976.

On February 1 of each year thereafter the daily average computation for the most recent production history period (4 months of lowest production during preceding calendar year) would be added, and the oldest data would be deleted, in computing the 3-year moving average production history base for each producer.

On any February 1, a producer who has not been assigned a production history previously, but who delivered milk during the preceding production history period, would be assigned a production history equal to 60 percent of his average daily deliveries during the preceding production history period. This initial allotment would be updated by including his average daily deliveries in two subsequent production history periods until a 3-year production history is established

for such producer. After a 3-year production history is established, the data for the most current production history period would be added and the oldest data deleted.

If a producer's average daily milk deliveries increase over the level from which his previous Class I base had been computed, this increased level will be credited towards an increase in production history base.

The Act of 1970 provides that a producer may retain his previously assigned production history even though he reduces his marketings, unless his marketings fall below the level of his Class I base.

In updating the production history of each producer with regard to underdelivery, the following rules would be applicable. If a producer delivers an amount equal to his Class I base times the number of days in the immediately preceding production history period (4 months of lowest production), his production history for the next year would not be reduced. If a producer delivers less than his daily average Class I base, then such producer's production history would be reduced in proportion to the amount his average daily Class I base exceeds his average daily delivery during the immediately preceding production history period (4 months of lowest production).

A producer who is assigned a Class I base assumes the obligation of supplying the market with a certain volume of milk. When he fails to deliver that amount, it is appropriate that his assigned share of the market be reduced by the amount of his underdelivery of his base. This is accomplished by reducing his production history base in proportion to his underdelivery of Class I base milk.

Under the Class I base plan provided herein, a producer could also modify his assigned production history through base transfers made after the effective date of the plan. When a producer disposes of Class I base by transfer, he automatically will transfer a proportionate amount of the production history associated with such Class I base. Accordingly, this amount of production history would be subtracted from that previously assigned to him in arriving at his updated production history. Similarly, production history associated with the acquisition of Class I base would be added to his assigned production history. Also, any adjustment of a producer's Class I base resulting from a decision by the hardship committee would be accounted for in terms of a proportionate amount of production history. This recognizes that a producer's effective Class I base could change during the year because of any one of the aforementioned reasons.

(f) *New producers.* The statute requires that a full base be assigned to a new producer who comes on the market when the nonpool plant to which he has been delivering milk becomes a fully regulated (pool) plant under the Inland Empire order. His production history and Class I base would be determined in the same manner as for a producer who had been on the market, depending on his average daily milk deliveries during the production history period. Such Class I base would be assigned to him effective on the date on which he becomes a producer under the Inland Empire order.

A Class I base also would be assigned immediately to a producer who had been a producer-handler in the past. His production history and Class I base would be computed as if his milk production received at his plant had been delivered to a pool plant during the representative period.

The statute also requires that a new producer who previously delivered to a nonpool plant and comes on the market individually (without entry of a plant) be assigned a base within 90 days after his first such delivery under the order. Such base would be assigned, however, only to a producer marketing milk from the same production facilities from which he marketed milk during the representative period. His production history and Class I base would be computed based on his deliveries to nonpool plants and to pool plants during the representative period as if all such deliveries had been to a pool plant. For producer milk delivered in the period prior to such assignment of Class I base, such a producer would receive the Class III price.

The recommended decision provided that such a producer be assigned a production history and Class I base on the first day of the second month following the month in which he becomes a producer under the Inland Empire order. In exceptions, proponent contended that such a producer should wait the full 90 days permitted under the statute before receiving a Class I base. The nearby Puget Sound Class I base plan provides a Class I base for such a producer on the first day of the third month after the month in which the producer begins deliveries under the order. So that the two Class I base plans operating in the northwest region complement one another to the extent possible, such a new producer should be assigned a production history and Class I base on the first day of the third month after the month in which he begins producer milk deliveries provided the 90-day statutory limitation is not exceeded.

A producer could enter the market without prior production history. The law requires that such a producer also be assigned a Class I base within 90 days after his first regular delivery of milk. The recommended decision provided for the assignment of base to such a producer on the first day of the second month after the month in which he begins producer milk deliveries. The decision provided the same waiting period for a producer who enters the market without prior production history as was provided for a producer with prior production history. For the same reasons set forth in the preceding paragraph, it is concluded that a producer without prior production history likewise should receive the Class III price for all his deliveries until the first day of the third month after the month in which he begins producer milk deliveries under the Inland Empire order provided the 90-day statutory limitation is not exceeded. Thereafter, he would be assigned Class I base milk equal to 40 percent of his deliveries each month (adjusted seasonally) multiplied by the most recently computed Class I base percentage. The producer's Class I base assignment would be subject to a further reduction of 20 percent (as permitted under the statute), if the producer begins deliveries after the plan's effective date. Such method of assignment would continue until the producer is eligible for a Class I base on the succeeding February 1.

Some producers who have been assigned Class I base may leave the market and return at a later time. If a producer ceases deliveries for more than 60 consecutive days, his previously assigned Class I base and production history base would be forfeited. Except for situations that are beyond a producer's control and covered by the provisions applicable to hardship, any such cessation of deliveries must be presumed to be deliberate for the advantage of such producer. Under the proposed Class I base plan, such a dairy farmer upon becoming a producer again on the market, would receive only the Class III price for his milk at least until the first day of the seventh month after leaving the market. Upon return to the market he would be treated as a new producer to whom Class I base assignment would be made beginning on the first day of the third month following that in which he resumes deliveries, if such date is later than the first day of the seventh month after ceasing delivery.

Similar treatment would apply to a producer who disposes of all of his Class I base by transfer. A dairy farmer who disposes of his entire Class I base by transfer does so with the knowledge that he is disposing of his privilege to receive returns for his milk at the base price under the order. Under these circumstances he will be eligible to receive only the Class III price as long as he has no base.

Normally, he would receive remuneration for the sale of his base. If the amount so obtained is substantial and the producer could get a new base assignment without delay, there would be a strong incentive for the producer to produce milk solely for the returns to be obtained by the sale of Class I base. Such a situation clearly would be contrary to the purpose expressed in the Act of 1970 that bases should not take on an unreasonable value.

The Class I base plan should operate to encourage a steady and reliable supply of milk for the market. It would not serve this purpose if a producer, of his own choice, could stop deliveries to the market for an extended period, and then return to the market with the privilege of receiving payment under the plan for Class I base milk in the same manner as before he left the market.

(g) *Allocation of Class I bases.* On the effective date of the Class I base plan, and on each February 1 thereafter, Class I bases will be assigned to eligible producers.

The plan provides that the total of Class I bases to be assigned would be 120 percent of producer milk used in Class I by handlers in the market during the immediately preceding calendar year. The quantity of Class I milk used in the computation would be:

(1) Total producer milk disposed of as Class I by all regulated handlers during the immediately preceding calendar year;

(2) Class I disposition of plants during the period they were nonpool plants, if such plants were pool plants during the immediately preceding month of December; and

(3) The Class I disposition of persons who were producer-handlers during a portion of the immediately preceding calendar year and who held producer status in the immediately preceding month of December.

The total of such Class I disposition during the immediately preceding calendar year would be multiplied by 120 percent and averaged on a daily basis. The resulting quantity would be prorated to the production history bases of individual producers, and become his daily Class I base.

For purposes of this proration, the relationship between Class I base and production history will be expressed as a percentage called the "Class I base percentage." The Class I base percentage would be computed by dividing the sum of the production history into the total Class I to be assigned, with the resulting ratio converted to a percentage by multiplying by 100 and rounding to the third decimal place.

In exceptions, a group of dairy farmers objected to the method of allocating Class I bases. They contended that each producer on the market receives a smaller base allotment when a producer sells his base and continues as a producer. Exceptors stated that this occurs because under such circumstances total production is used to compute the market's Class I base percentage. This is not the case, however, because in computing such percentage, on February 1 each year, the total Class I base to be assigned is divided by the total of production history bases, not by the market's total production. A producer who sells his base and continues on the Inland Empire market has no assigned production history base. Consequently, his production would not dilute base assignments in the manner described by exceptors.

Each year producers' Class I bases will be updated to reflect changes in Class I sales and production history bases. The Class I milk quantity to be used for the updating would be that disposed of by handlers in the preceding year. It would include the Class I milk of any former nonpool plant that became a pool plant and held pool plant status in December preceding updating on February 1. The Class I sales of a producer-handler also would be included if such person were a producer under the order during December preceding February 1.

Following these computations by the market administrator each producer would be assigned a share of the Class I sales of the Inland Empire market. The assigned base would be effective for 1 year from February 1 through January of the following year.

(h) *Base transfers.* The Agricultural Act of 1970 provides that bases allocated to producers may be transferred under an order pursuant to the terms and conditions provided in the order, including terms and provisions that would prevent bases from taking on an unreasonable value. Considered by proponent to be an important aspect of the base plan, transfer provisions should be included in the order.

Permitting the transfer of base allows an established producer to adjust his production to his share of the market in a way that is beneficial to him as well as other baseholders. If he desires to increase his production he may acquire additional base to cover such increase. On the other hand, if he desires to reduce the scale of his operation, he may dispose of the base in excess of his own requirements.

Base transfers also afford new producers the opportunity to obtain available base without delay in a manner that does not dilute the base pool. This provides an orderly alternative to the slower method of acquiring base through his own production.

Although transfers are permitted, the Act still requires that bases should not take on an "unreasonable value." Several features of the plan proposed herein should prevent bases from taking on an unreasonable value.

The single most important aspect of this plan to prevent bases taking on an unreasonable value is that one-third of the Class I base and the production history base associated with it will lapse on each transfer, except intrafamily transfers. The amount of production history base associated with Class I base will be determined by multiplying the total production history base held at the time of transfer by the percent of Class I base transferred. This lapse of base should mitigate any abuse of the transfer privilege.

The one-third lapse of base will be to the advantage of other baseholding producers since each transfer will leave less production history to be apportioned to Class I sales in the market. On each transfer of 100 pounds of base, 33⅓ pounds will lapse, thereby strengthening the Class I base percentage used each February 1 to determine the reallocation of Class I base.

Under the plan, producers may transfer not less than 150 pounds or the entire base, whichever is less. With a one-third lapse of base, a transferor will then transfer 150 pounds of Class I base, but the transferee will receive only 100 pounds of it.

The plan would allow a dairy farmer to establish a production history for himself and earn a full base over a 3-year period. Similarly, an established producer may increase his Class I base by building up a greater production history through his own production. With the option of earning base himself, such producer will have less incentive to buy additional base under the new plan. It also provides a means for new producers to earn increased base, lessening the need for a new producer to buy base to expand his operation.

Under the plan provided herein, not only the Class I base but also the production history base will be transferable since the Class I base is simply a percentage of the production history base. As previously indicated, production histories and Class I bases will be updated on February 1 of each year.

Under this plan, bases computed from less than a full production history period may not be transferred, except as an intrafamily transfer. This provision will require a producer to demonstrate his ability and willingness to supply the market's needs in a reliable fashion before he may transfer base. It will also prevent dilution of total base by producers who don't intend to remain on the market.

A time limitation on transfer of base is also needed for certain other types of producers. In the absence of some limitation, a producer-handler could easily switch to producer status, be assigned a full Class I base, and then sell it. A 3-year time limitation on the transfer of base by a producer-handler will avert such an unwarranted sale of base. Therefore, a producer-handler who becomes a producer under the Inland Empire order and receives a Class I base may not transfer that base for a period of 3 years from the date of receipt, except to a member of the immediate family.

Also, a producer that becomes a producer-handler must forfeit the maximum amount of Class I base and production history base held at any time during the preceding 12-month period. This provision is necessary to assure that such a person does not receive a windfall by having a Class I base available for transfer and simultaneously having exemption as a producer-handler. This forfeiture also should be required if producer-handler designation is to be issued to any member of such a producer's family, any affiliate of such a producer, or any business unit of which such a producer is a part. This is also necessary in order to avoid windfall benefits.

As earlier stated, a producer will receive a base when the plant to which he has been shipping becomes a pool plant. Such a producer should have to wait 1 full year before he is allowed to transfer a base computed from a full-production history period. Otherwise, if the plant holds only a short-term contract in this market and loses it say 6 months later, the producers shipping to that plant could sell their allotted base, thereby receiving a windfall gain.

Although the recommended decision provided for a 1-year restriction on all base transfers, it was not intended that such provision be applied to all categories of producers. The 1-year restriction was intended to apply to a producer who enters the market because the plant that receives his milk becomes a pool plant. Such a producer is assigned a full production history and Class I base effective immediately based on his deliveries to the nonpool plant. Also, the 1-year restriction was intended to apply to a producer who delivered to a nonpool (other order or manufacturing) plant and began delivery to an Inland Empire pool plant. Such a producer is assigned a production history and Class I base effective on the first day of the third month after his first delivery of producer milk (not to exceed 90 days) based on his deliveries to the nonpool plant. Accordingly, the order is changd to provide that the 1-year restriction on base transfers shall apply only to the producers described in this paragraph.

The order also contains a provision that prevents the sale of a base computed from less than a full production history period. Exceptor contended that this provision adequately covers the new producers discussed in the preceding paragraph. They contended there is no need to provide additional provisions applicable to such producers, and suggested that the paragraph restricting all base transfers for 1 year be deleted. The provision exceptor deems to be adequate would not cover the situation when the new producers described in the preceding paragraph shipped milk to nonpool plants during the full production history period. In these circumstances, such producers should not be at liberty to sell their bases for a period of 1 year from the date of receipt.

If base transfers by such producers are not restricted, the following situation could occur. A producer could sell his Puget Sound base one day, become a producer on the Inland Empire market the next day, and be assigned a full production history and Class I base. Without the 1-year restriction on the transfer of base the producer could make such base available for sale immediately. Such sale would be a "windfall" for the producer. This type of situation should not be permitted.

If an incentive to obtain such returns is provided by the order, it would affect adversely the Class I bases of the other producers regularly supplying the fluid milk needs of the market. This would occur because the Class I base percentage would decrease as a result of the additional production history bases established for the new "transient" producers. These effects would be contrary to the Act, to promote orderly marketing, including assurance of a stable supply of milk for the Inland Empire market.

In addition to these restrictions on transferring base, certain restrictions are necessary to discourage established producers from selling their bases and earning new bases. As pointed out earlier in the decision a producer who transfers his entire Class I base, would receive only the Class III price for his milk until the later of the following dates: (1) The first day of the third month following the month in which he resumes delivery of producer milk for the market; or (2) the first day of the seventh month following the month in which he ceases deliveries or disposes of his Class I base.

In exceptions, proponent contended that a provision is needed to prevent a producer from selling his Class I base in one market and shifting to another market with a Class I base plan and getting a Class I base assignment on the basis of his deliveries to the nonpool (other order) plant. Proponent contended that a producer who sells his Class I base under any order prior to entering the Inland Empire market should receive the same treatment as a producer who forfeits or disposes of his Class I base under the Inland Empire order.

The order permits an Inland Empire producer to "switch" to another market such as Puget Sound because the statute does not prohibit such choice on the part of a producer. However, if he comes back on the Inland Empire market, he would be assigned a production history and Class I base on the same basis as any Inland Empire producer who sells his base and continues as a producer for the market.

If the base plan set forth herein is adopted, Class I base plans will operate in two adjoining markets in the Northwest region. There is nothing in the hearing record to indicate that "switching" of producers between the Puget Sound and Inland Empire markets will actually occur.

The opportunity and incentive for such "switching" may be limited. Each order will contain a provision designed to deter such so-called "market-hopping" by providing that a producer assigned a Class I base on deliveries to a nonpool plant cannot transfer such base for a period of 1 year.

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 case, production of milk using such facilities would be considered as a continuation of the operation by the transferor-producer. This restriction should 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 shall apply to a producer who has forfeited his base and resumes production either as an individual or as a financially interested party in the new business unit. These restrictions, however, would not apply to a separate production facility in which the producer who transferred or forfeited his base held a financial interest more than 3 months prior to the effective date of the base transfer or forfeiture.

The person who forfeits his base or who sells his entire base and resumes production at a subsequent date, or who continues in production, is not a new producer in the same sense as other nonbase-holding 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.

An intrafamily transfer involves the transfer of base from the baseholder to a member of his immediate family (including transfers to an estate and from an estate to a member of the family), provided that the transfer implements a continuous operation on the same farm with the same herd. The one-third lapse of base should not apply to an intrafamily transfer.

In exceptions, proponent asked that the term "intrafamily" be specifically defined to include certain relationships. For purposes of administering the intrafamily transfer provisions of the order, the following relatives will be considered to be members of the same immediate family:

Husband or wife.	Stepfather or stepmother.
Son or daughter (natural or adopted).	Stepbrother or stepsister.
Brother or sister.	Son-in-law or daughter-in-law.
Father or mother.	Father-in-law or mother-in-law.
Grandfather or grandmother.	Brother-in-law or sister-in-law.
Grandson or granddaughter.	Uncle or aunt.
Stepson or stepdaughter.	Nephew or niece.

Proponent contended that uncles, aunts, nephews, and nieces are too distant relatives to be considered members of the same immediate family. In the agricultural community it is not unusual for an uncle and a nephew, for example, to be working together on the same farm. In addition, the relatives proponent asks to be excluded are no more distant than some of those proposed for inclusion. It is concluded, therefore, that the aforementioned relationships should also be considered "intrafamily."

If a Class I base is owned jointly by one or more members of a family the pro rata share of each coowner may be passed to an immediate family member and there will be no one-third lapse of base provided there is no interruption of the dairy operation on the same farm.

Another special category of transfers concerns corporations. If a corporation holds base, a change in ownership of the stock that transfers control to a new person or persons will require a transfer of base in compliance with the transfer provisions. Moreover, since corporations may control other corporations, every time controlling interest is

transferred to another corporation, there will be a corresponding transfer of base in compliance with the transfer provisions.

To facilitate administration of the plan proposed herein, a base transfer request must be filed with the market administrator prior to the first day of the month in which it is to be effective. Even when a farm and herd are transferred with the base, the base transfer request must still be made prior to the first day of the month of transfer.

(i) *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. Proponents testified about some of the conditions under which such provision might be applicable. However, no one put forth the claim that every incident of hardship or inequity could be identified in advance so that provision could be made for it in the order. Accordingly, the plan provided herein establishes guidelines for the review of claims from producers relative to hardship or inequity under the Class I base plan.

Provisions are included in the order to identify circumstances under which a producer may apply for relief from hardship or inequity. A producer may apply for adjustment for alleviation of hardship or inequity if he concludes that his production history is not representative of his level of milk production because of conditions which are beyond his control (such as disasters of nature, disease, pesticide residue, ecological constraints, 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. The 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 the meeting. The committee decision must be endorsed by at least 3 of the 5 members to represent a committee quorum.

Producer Base Committee recommendations to deny any request would be final upon notification of the producer, subject only to appeal by such producer to the Director, Dairy Division, within 45 days after the notification. 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 transmittal.

A group of producers excepted to the fact that the market administrator will appoint the producers to the Producer Base Committee to review producer claims regarding hardship or inequity. They contended that such committee should be elected by producers. The provisions to alleviate claims of hardship and inequity in the Inland Empire market are very similar to those provided under the two Class I base plans now in effect (Puget Sound and Georgia). The provisions have worked well in those markets. There is insufficient evidence in the record on which to adopt another method of selecting producers to the Producer Base Committee. It is concluded that the proposed method is appropriate. Even though the market administrator does select the producer representatives on the Producer Base Committee, an adverse decision by the committee may be appealed by the producer to the Director of the Dairy Division. Hence, the market administrator does not have sole authority over the actions of the Producer Base Committee. If the need arises, a different selection method could be considered at another hearing after market experience with the plan.

The market administrator is authorized to reimburse committee members for their services at $20 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.

At the hearing, a proprietary handler witness objected to financing the Producer Base Committee with funds collected in the administrative fund.

The moneys collected in the 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 in the administration of the Class I base plan. It has been concluded that the review of petitions for such relief can be handled most effectively by producer base committees. Hence, the expense associated with the operation of such committees is one that is incurred in the performance of an appropriate and necessary function in the administration of the order. Therefore, the order should provide that the necessary expenses incurred by the Producer Base Committees be paid from moneys collected pursuant to the administrative assessment.

(j) *Administrative provisions.* Under the Class I base plan certain categories of new producers, as described above, receive payment for their milk at the Class III price, rather than at the uniform prices for base and excess milk. The provisions of the order relating to: computation of the uniform price; and payments to producers are revised to reflect this.

The definition of a producer-handler must be amended to provide that if a person had been a producer under the order and had been assigned a Class I base, he must forfeit such base to be designated a producer-handler.

Except as noted above, any changes made in the language of the proposed amendments pursuant to this decision are for the purpose of clarification and do not otherwise affect the essential application of the provisions.

(k) *Continuing provisions in the event of lack of approval by producers or expiration of statutory authority for the Class I base plan.* The order should include provisions for the computation of a uniform price for the producer milk to be used in distributing returns to producers in the event producers, voting individually in a separate referendum, fail to approve the Class I base plan. Such provisions also would be necessary in the event that the statutory authority for Class I base plans should expire while the Class I base plan is in effect if incorporated in the order.

Some producer witnesses indicated their opposition to the adoption of a Class I base plan. They urged that the order continue to provide for payment to all producers of a uniform price for milk, regardless of the production history of the individual producers. Producer witnesses who supported the adoption of the Class I base plan testified that the order should be continued in effect if the proposed Class I base plan were not approved by producers voting in a separate referendum. It was the position of the latter group that, in such event, returns should be distributed to producers by means of a uniform price applicable to all producer milk.

For the reasons set forth above, it has been concluded that producers should have the opportunity to decide whether returns from the sale of their milk should be apportioned among producers through a Class I base plan. Incorporation in the order of provisions, either to effectuate a Class I base plan, or to provide for the computation of a uniform price applicable to all producer milk, will afford producers the opportunity to decide which of these provisions should be included in the order. It will also provide for the continued functioning of the order in the event statutory authority for the plan should expire while the plan is in effect.

2. *Class III milk price.* The Class III milk price should be the basic formula price (Minnesota-Wisconsin pay price series) for the month, but not to exceed a "snubber" price based on butter and nonfat dry milk prices.

Currently, the Class III price is computed on the basis of butter and nonfat

dry milk values in a formula recognizing yield factors for these products and a manufacturing allowance ("make allowance"). This type of formula has been provided in the order since its inception in 1956.

Proposals to amend the Class III price formula were made by two cooperative associations representing producers supplying milk to the market. Both associations proposed that the Class III price be based on the lower of the basic formula price (Minnesota-Wisconsin pay price series) for the month, or a "snubber" price based on butter and nonfat dry milk prices. One cooperative proposed that the snubber formula include a 67-cent "make" allowance, while the other cooperative proposed a make allowance of 48 cents.

Working as an alternate formula to the Minnesota-Wisconsin price, the first of such proposals would have decreased the average Class III price about 4 cents per hundredweight in 1971, while the other proposal would have increased the average Class III price about 5 cents per hundredweight. The latter would make the Class III price level in this market the same as that provided (with an identical formula) for the Puget Sound and Oregon-Washington milk orders. Thus, the issue is whether the Class III price level should be increased or decreased.

Proponent of the lower Class III price contended that conditions in the Inland Empire market are not as favorable for the manufacture of dairy products as those in other competing markets. This association handles the major part of the market's reserve supplies. Testimony of the association's witness in support of a lower Class III price centered on the prices the association received for the disposition of reserve milk in the past and a projected first year operating statement for the new milk manufacturing plant it has opened recently in Spokane.

In 1971, the association disposed of 44 percent of its surplus milk to plants regulated by the Puget Sound milk order. For this milk it received the Puget Sound Class III price, which averaged 5 cents per hundredweight higher than the Inland Empire Class III price. In addition, it received dividends of $15,000 from the regional cooperative marketing agency.

The association also disposed of 26 percent, of its surplus milk in 1971 to a manufacturing plant regulated by the Oregon-Washington order. The prices received for this milk exceeded the Oregon-Washington Class III price, which likewise averaged 5 cents per hundredweight higher than the Inland Empire Class III price. During the last three months of 1971, the price the association received on its dispositions to the Oregon-Washington order plant averaged 53 cents per hundredweight higher than the Inland Empire Class III price. In addition, the association received $65,000 in dividends from the cooperative for the year.

Another 14 percent of its surplus disposition for 1971 was sold to manufacturing plants in Idaho. The witness for the cooperative provided the prices it received for such dispositions during the first 6 months of 1971. During this period, the association received prices averaging 33 cents per hundredweight over the Inland Empire Class III prices.

The association incurred hauling expense to the plant of disposal that was deducted in determining the net price available to producers from such dispositions.

The foregoing price data demonstrate clearly that manufacturing plants located in Washington, Oregon and Idaho, which have handled a substantial portion of the Inland Empire market's surplus disposition, paid prices higher than the Inland Empire Class III price. In addition, dairy farmers delivering manufacturing grade milk to plants located in Idaho and Oregon during 1971 received prices that averaged $4.84 per hundredweight for milk testing 3.5 percent butterfat. Such prices were 12 cents above the Inland Empire average Class III price for 1971.

In the future, the method of disposing of the market's surplus milk will be changed. A new surplus manufacturing plant has been constructed in the marketing area, providing a local outlet for the market's reserve milk supply. This plant will be capable of processing all the reserve milk for the market. The presence of the new plant virtually will eliminate the considerable transportation costs associated with handling the market's surplus milk in the past.

At the hearing a witness for the association proposing a lower Class III price introduced a projected operating statement for the new plant. Based on the projection, the association would lose about $7,000 during the first year of operation. An unfavorable operating position, including initial start-up costs, is not an unusual situation during a plant's first year of operation. It should not be the basis for measuring the farm value of milk for manufacturing use.

In view of the evidence concerning higher prices being paid by manufacturing plants in the Northwest and the availability of a new facility locally to handle the market surplus, it may not be concluded that this market is at a pricing disadvantage with competing markets in surplus disposal. The proposal to lower the Class III price level therefore is denied.

The second proposal was made by a cooperative association that operates a pool distributing plant under the order. It would establish a Class III price formula identical with the Class III price formula provided in both the Puget Sound and Oregon-Washington milk orders. As previously stated, if the formula had been used in the Inland Empire market during 1971, Class III prices would have averaged 5 cents per hundredweight higher. Under the formula, the basic formula price (Minnesota-Wisconsin) would have determined the Class III price in 8 of the 12 months, and the snubber would have determined it in the other 4 months.

Proponent contended that the present Class III price, determined solely from butter and nonfat dry milk prices, will not be representative of the farm value of milk in manufactured product uses in this area in the future.

It was testified that while in the past manufacturing facilities located in the market were not fully adequate, the newly constructed plant will be adequate to handle all the market's reserve supply. In proponent's view, this change in marketing conditions warrants a price formula that will relate Class III prices to those prevailing in the entire northwestern region, notably the Puget Sound and Oregon-Washington markets, and with manufacturing milk values generally, because the dairy products made from Class III milk are sold in a nationwide competitive market. This is the stated objective of proposing to employ the Minnesota-Wisconsin price series as a constituent of the Class III price formula.

Admittedly, the pricing of reserve milk under a Federal order is complex. In this market, as in other markets, the problem is one of (1) relating surplus milk prices to the prices that unregulated manufacturing plants pay for milk, (2) accommodating the methods by which cooperatives handle reserve milk, and (3) assuring producers that they receive full value for their milk.

Regulated plants compete with unregulated plants in the marketing of manufactured dairy products. Consequently, it is important to maintain close alignment between order surplus prices and farm pay prices for unregulated milk. Using the Minnesota-Wisconsin series as the primary basis for pricing reserve milk not only helps to establish the desirable price parity between regulated and unregulated plants but also provides a reasonably consistent basis of pricing milk among regulated markets.

The Minnesota-Wisconsin price series represents actual prices paid farmers for manufacturing grade milk in Minnesota and Wisconsin. It is announced for each month, on or before the fifth day of the following month, by the Department. It is based on a large sampling of plants in Minnesota and Wisconsin not under regulation. Approximately one-half of the manufacturing grade milk sold in the United States is produced in these two States.

Use of the Minnesota-Wisconsin series as a constituent of the Class III price formula assures that the price under the order is kept constantly up to date with changing values of manufacturing milk. The Minnesota-Wisconsin price for the month, and the resulting "make allowance" taken by these manufacturing milk plants (mostly cooperatives), are established by competitive conditions. Such price therefore reflects the margin reasonably efficient unregulated manufacturing plants are taking for their manufacturing operations. Use of such price under the order provides the same margin to the operator of a regulated manufacturing milk plant.

Besides relating the order Class III price to prices paid by unregulated manufacturing plants, another objective of pricing reserve milk under an order is to maximize returns to producers while at the same time encouraging the orderly disposition of such milk.

It is the returns from all classes of milk that provide farmers the incentive to produce the needed milk supply. To the extent that the price for reserve milk in the market contributes less than its full market value to producers' returns, the Class I price must be higher than otherwise necessary to make up the difference. Accordingly, it is appropriate that the reserve milk supplies be priced at the highest practicable level consistent with orderly disposal of the milk. Since the excess market supplies for this market normally are made into manufactured dairy products, such milk should be priced on the same basis as milk in other parts of this general area that is so used. In this way, producers supplying the market may be assured that they receive prices that reflect prevailing values in the region.

As indicated previously, the proposed formula would have increased the average Class III price 5 cents per hundredweight in 1971. The prices of milk used for Class III purposes at manufacturing plants in Oregon, Washington, and Idaho generally have exceeded the Inland Empire Class III price. The change provided herein is appropriate under current marketing conditions.

The price for Class II milk is determined by adding 25 cents to the Class III price. There was no proposal before the hearing to change the relationship between the Class II and Class III prices, which heretofore has been found appropriate. This relationship is continued, and it is identical with the relationship between Class II and Class III prices for the adjacent Puget Sound and Oregon-Washington markets.

A proprietary handler representative excepted to increasing the Class II price by changing the Class III price level. Exceptor contended that the hearing notice did not adequately notify handlers of an increase in the Class II price.

The Class II price formula in the Inland Empire order has provided for the addition of 25 cents to the Class III price since the order's inception in 1956. It would be difficult to believe that a handler engaged in Class II disposition in this market would not be completely aware of this pricing situation. Exceptor, who engages in Class II milk operations, was present at the hearing and had opportunity to propose a different Class II–Class III price relationship in light of the Class III price formula proposal. No evidence was presented in support of a change in the formula now provided for pricing Class II milk. Under these circumstances, it must be concluded that the present method of fixing the Class II price in this market continues to be appropriate.

3. *Miscellaneous, administrative, and conforming changes.* (a) The order should be amended to eliminate the possibility of double charges on milk moving from a regulated plant to an unregulated plant and thence to a regulated plant.

More and more, plants are tending to specialize in the processing of certain products or in the packaging of products in particular type containers. It is not uncommon for milk to be transferred from a pool plant to a nonpool plant for special processing, and the finished products to be moved back to a regulated plant. When the milk is initially priced at the Class I price, the market price structure is in no way undermined if this milk or its equivalent is disposed of by the nonpool plant in the regulated market.

The order should provide that the pool plant operator will have no obligation to the pool on such other source Class I milk. This is achieved through a revision of the allocation provisions and the procedure for computing the pool obligation of the pool plant operator. Receipts of packaged fluid milk products at a pool plant from an unregulated supply plant would be allocated to the pool plant's Class I utilization to the extent that an equivalent amount of skim milk or butterfat disposed of to the unregulated plant by handlers fully regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order. This allocation would be made prior to any other allocation of receipts to the plant's Class I utilization, and no order obligation would apply to the milk so allocated to Class I. In the case of fluid milk products received at a pool plant from an unregulated supply plant in bulk form, the provision setting forth a handler's pool obligation would specify that no payment would apply to any such milk allocated to Class I if, as just described for packaged milk, an equivalent amount of milk received at the unregulated plant had been priced as Class I milk under some order.

The provisions prescribing the obligations of a partially regulated distributing plant should be changed also in this regard. When such plant's obligation is computed as though it were a pool plant, proper recognition must be given to any transfers from the plant to a regulated plant that already have been priced as Class I milk under another Federal order. Also, in computing such a plant's pool obligation on route sales in the marketing area, recognition should be given to any receipt of milk at such plant from an unregulated plant if an equivalent amount of milk received at the latter plant already has been priced as Class I milk under another order.

The order now imposes a handler assessment for administering the order on all other source Class I milk, except that received in fluid form from a pool plant or an other order plant. This may include milk that already has been priced as Class I milk under some Federal order as described above. With the removal of a "double" Class I charge on such milk the order should be changed to remove any assessment on such milk for administrative expenses when such milk is subject to an administrative assessment under the order that initially priced the milk.

(b) The order should be changed to provide that the Class I price applicable to receipts of other source milk, after adjustment for location of the shipping plant, shall be not less than the Class III price.

A pool plant operator's obligation to the producer-settlement fund may include a payment on receipts from unregulated sources that are allocated to Class I. The order now provides that the weighted average price, when adjusted for location, should be not less than the Class III price. However, no such limit is placed on adjustments to the Class I price.

Such limitation is appropriate, otherwise, under certain conditions a handler could receive payment from the producer-settlement fund on such receipts. It could result whenever the applicable location adjustment at the plant exceeded the differences between the Class I and Class III prices. Under these circumstances, producers under the order, in effect, would be providing a handler with a credit that reduced his costs for the other source milk below its value for manufacturing uses. A handler should not be provided this incentive to import milk from distant sources at the expense of local producers. The order should be amended where applicable, to limit the Class I price, when adjusted for location, to not less than the Class III price.

(c) The handler definition of the order should be revised to remove the option now provided for a cooperative association to act as a handler on farm bulk tank milk.

The change provided herein would designate a cooperative association as the handler whenever milk of its producer members is delivered direct from the farm to pool plants of other handlers in a tank truck owned or operated by such association or under the control of such association, by contract or otherwise, to the extent that such association supervises and controls the determination of the farm weights and tests of its members' milk.

When a cooperative association takes responsibility for the delivery of milk from producers' farms to regulated plants, such delivery is made in tank trucks. Each load of milk usually contains the production of a number of farmers.

The quantities of milk and butterfat content received from each producer constitute, in the aggregate, the skim milk and butterfat in the pool and must be reported to the market administrator. Under the bulk tank handling system, the cooperative association is in control of the information as to the quantities of milk and the butterfat tests thereof received from each producer. After the milk is commingled with the milk of other producers in a tank truck, there

is no further opportunity to measure, sample or reject the milk of an individual producer. Accordingly, when weighing and testing are conducted under the direct supervision and control of a cooperative association, the cooperative should be the handler responsible for reporting receipts of milk from member producers and its disposition to other plants.

Under these circumstances, the responsibility for being the handler must be defined clearly. Otherwise, when a cooperative association performs the functions described above, the possibility exists for protracted and costly disputes between the association and handlers concerning the quantity of milk delivered to a pool plant and the butterfat tests of the milk of each producer member in the tank. To preclude such occurrence, the cooperative association should be designated the handler whenever it is performing such functions.

(d) The order should be changed to substitute the Chicago 92-score butter price as a basis for computing butterfat differentials.

The order now provides that the Chicago 93-score quotation be used to compute the differentials. However, most orders now provide for using the 92-score butter quotation.

A price quotation for 93-score butter is not always available. In such instances the order prescribes that the Chicago 92-score quotation be used. In recent years, there has been very little difference between the two quotations. During 1971, the 93-score quotation averaged 63.38 cents. For 92-score, the annual average was 68.35 cents. In 1970 they were 69.44 and 69.43 cents respectively.

As a corollary change, the words "daily" and "creamery" would be discontinued in referring to the butter price. These two word changes will make the description of the butter price in the butterfat differential provisions comport with the recent amendment on advance pricing which revised the description of the butter price in the basic formula provisions of the order.

The changes proposed herein will promote more uniformity among orders.

(e) The order format should be revised to provide a more appropriate arrangement of order provisions.

The regrouping of provisions, together with the redesignation of section numbers, results in a more compact order and a more specific grouping of related order provisions. No substantive change in order provisions results from the rearrangement proposed herein.

The need for such rearrangement reflects the cumulative effect of past amendments, and the recent "general provisions" amendments that resulted in a number of unused sections that disrupt the continuity of the order. The redesignation provided herein will facilitate future order amendments to provide greater uniformity among orders in the arrangement of order provisions.

Since the entire Inland Empire order is being redrafted at this time, it is appropriate that the amended order provide all of the language effective at the time this proceeding is completed. The order resulting from this proceeding would not become effective prior to December 1, 1972; therefore, the amended order language that becomes effective on December 1, 1972, is incorporated herein.

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;

(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; and

(d) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1133.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Inland Empire marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the order, as amended and as hereby proposed to be amended (except for the proposed Class I base plan), regulating the handling of milk in the Inland Empire marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

It is hereby further directed that a separate referendum, in which each individual producer has one vote, be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the proposed order provisions constituting a Class I base plan of payment to producers in the order, regulating the handling of milk in the Inland Empire marketing area are separately approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of these referenda is hereby determined to be August 1972.

The agent of the Secretary to conduct these referenda is hereby designated to be James A. Burger.

Signed at Washington, D.C., on December 4, 1972.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] *Amending the Order, Regulating the Handling of Milk in the Inland Empire Marketing Area*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of 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) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

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

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

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1133.85.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Inland Empire marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on September 6, 1972, and published in the FEDERAL REGISTER on September 9, 1972 (37 F.R. 18372 shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modifications:

INDEX OF CHANGES

With respect to the order index:

1. Section titles for § 1133.45 and § 1133.60 are revised.

2. Sections 1133.61 and 1133.61a are merged into a newly designated § 1133.61.

With respect to the order:

1. The introductory text of § 1133.7 is revised.

2. Section 1133.9 is revised.

3. Paragraph (c) of § 1133.13 is revised.

3a. Paragraph (b) of § 1133.31 is revised.

4. The introductory text of § 1133.60 is revised.

5. Section 1133.61 is revised.

6. Paragraph (a) of § 1133.75 is revised.

7. Section 1133.91(e) is revised.

8. Section 1133.92 is revised.

9. In § 1133.93, paragraph (c) is revised.

10. In § 1133.94, paragraphs (h) and (i) are revised.

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

DEFINITIONS

HANDLER REPORTS

CLASSIFICATION OF MILK

CLASS PRICES

UNIFORM PRICE

PAYMENTS FOR MILK

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

CLASS I BASE PLAN

AUTHORITY: The provisions of this Part 1133 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1133.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1133.2 Inland Empire marketing area.

"Inland Empire marketing area" hereinafter called the "marketing area" means all of Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone Counties, Idaho; Spokane and Whitman Counties, Wash.; that portion of Pend

Oreille County, Wash., lying south of Township 35; and that portion of Stevens County, Wash., lying south of Township 37. This definition shall include all municipal corporations, Federal military reservations, facilities, and installations and State institutions lying wholly or partly within the above described area.

§ 1133.3 Route disposition.

"Route disposition" means any delivery, including delivery by a vendor or disposition from a plant, plant store or distribution point, of fluid milk products to retail or wholesale outlets other than delivery to a milk plant or distribution point, or pursuant to § 1133.40(c)(3).

§ 1133.4 Plant.

"Plant" means the land, buildings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained primarily for receiving, processing or packaging of fluid milk and milk products (including filled milk). However, an establishment that is separate from the foregoing operating unit and used only for transferring bulk milk from one tank truck to another shall not be a plant under this definition.

§ 1133.5 [Reserved]

§ 1133.6 [Reserved]

§ 1133.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means any plant described in paragraph (a) or (b) of this section, which is approved by an appropriate health authority for the receiving of milk qualified for distribution as Grade A milk in the marketing area. If a portion of such plant is physically separated from the Grade A part of such plant, is operated separately, and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(a) Any plant, hereinafter referred to as a "distributing pool plant," in which fluid milk products are processed or packaged and from which during the month:

(1) Route disposition of fluid milk products, except filled milk, on routes within the marketing area equals or exceeds the lesser of 150,000 pounds or 15 percent of the total receipts of Grade A milk from dairy farmers, cooperative associations, pursuant to § 1133.9(c), and from pool supply plants and other plants forwarding the applicable percentage of receipts specified in paragraph (b) of this section to such plant and other pool distributing plants; and

(2) Total route disposition of fluid milk products, except filled milk, is 40 percent or more of such receipts in any of the months of February through August, inclusive, and 50 percent or more of such receipts in any of the months of September through January, inclusive.

(b) Any plant, hereinafter referred to as a "supply pool plant", from which there is forwarded in the form of fluid milk products, to a pool distributing plant(s) 50 percent or more each of the skim milk and butterfat in its dairy farm supply of Grade A milk except filled milk, during the current month during the period of September through November, or 20 percent or more during the current month during the period December through August. Any such plant which has forwarded in the form of fluid milk products, more than 50 percent of such receipts except filled milk, for the entire period of September through November shall be a pool plant for the months of December through August immediately following unless the operator of such plant files with the market administrator, prior to the first day of any month(s), a written request to withdraw such plant from pool plant status or such month(s);

(c) For the purposes of computing the percentages specified in this section the following shall apply:

(1) Receipt of milk from dairy farmers shall not include, at either plant involved, milk diverted pursuant to § 1133.9(b)(2);

(2) If a plant operated by a cooperative association meets the requirements of paragraph (a)(1) of this section, bulk milk delivered to distributing pool plants of other handlers shall be added to route disposition for purposes of computing the percentage specified in paragraph (a)(2) of this section; and

(3) If a handler operates more than one distributing plant meeting the requirements of paragraph (a)(1) of this section, the aggregate route disposition and receipts of all such plants shall be used to compute the percentage specified in paragraph (a)(2) of this section for each of such plants; and

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing or supply plant which would be subject to the classification, pricing and payment provisions of another order issued pursuant to the Act, unless a greater volume of fluid milk products, except filled milk, is disposed of as route disposition or to pool plants in the Inland Empire marketing area than in the marketing area regulated pursuant to such other order.

§ 1133.8 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that forwards fluid milk products during the month to a pool plant, but is neither an other order plant nor a producer-handler plant.

(e) "State institution" means State owned and operated institution which processes or packages skim milk and butterfat distributed solely on its premises or those of other State institutions. It shall be exempt from all provisions of this part.

§ 1133.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to the milk of its member producers caused to be diverted for its account:

(1) From a pool plant to a nonpool plant; and

(2) from a pool plant to another pool plant to which such cooperative association delivers no milk pursuant to paragraph (c) of this section during the month, and not exceeding a period of 90 consecutive days for any producer;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. Milk so delivered shall be considered to have been received by the cooperative association at the location of the plant to which delivered.

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1133.7(d)(2).

§ 1133.10 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a processing plant from which fluid milk products are disposed of in the marketing area as route disposition but who receives no fluid milk products during the month from other dairy farmers or from any other source except by transfer from a pool plant, and who receives no milk products other than fluid milk products for reconstitution into fluid milk products. Such person must provide proof satisfactory to the market administrator that the maintenance, care, and management of the dairy animals and other resources necessary to produce his own farm milk production and the operation of the processing and distribution business is the personal enterprise and risk of such person.

(b) A person may qualify as a producer-handler under paragraph (a)

of this section if having been a producer to whom a Class I base had been assigned pursuant to § 1133.93, such Class I base has been forfeited pursuant to § 1133.95(c).

§ 1133.11 Dairy farmer.

"Dairy farmer" means any person who operates a farm engaged in the production of milk.

§ 1133.12 Producer.

"Producer" means any dairy farmer, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1133.13.

§ 1133.13 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat produced by producers:

(a) With respect to receipts at a pool plant:

(1) Received directly from such producers;

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions of paragraph (c) of this section; and

(3) That to be classified pursuant to § 1133.42(b);

(b) With respect to additional receipts of a cooperative association:

(1) For which such cooperative association is the handler pursuant to § 1133.9(b)(1), subject to the limitations and conditions of paragraph (c) of this section;

(2) For which the cooperative association is the handler pursuant to § 1133.9(b)(2); and

(3) For which the cooperative association is the handler pursuant to § 1133.9(c) and which is in excess of the quantity delivered to pool plants.

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account, under paragraph (b)(1) of this section, the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March, and 70 percent in any of the months of April through August, of its total member milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis for the combined deliveries of milk by their member producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section, milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under subparagraph (1) of this paragraph. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March and 70 percent in any of the months of April through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under subparagraph (1) of this paragraph;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month). Producers eligible for diversion in the month of September, October, or November must in addition have at least 2 days' production received at a pool plant in the respective month; and

(5) For the purpose of location adjustments pursuant to §§ 1133.52 and 1133.75, diverted milk shall be considered to have been received at the location of the plant to which diverted.

§ 1133.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products from any source except (1) producer milk; or (2) receipts from other pool plants; and

(b) Products, other than fluid milk products, from any source (including those processed at the plant) which are reprocessed in connection with, or converted to, another product in the plant during the month, and any disappearance during the month of nonfluid milk products not otherwise accounted for.

§ 1133.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, skim milk drinks, buttermilk, flavored milk, flavored milk drinks, filled milk, concentrated milk, skim milk or milk drinks (not including evaporated milk, condensed milk or condensed skim milk), fortified milk or skim milk (including "diet" foods), cream (sweet or sour), any mixture in fluid form of cream and milk or skim milk (except ice cream mix, frozen dessert mix, cocoa mixes, a product which contains 6 percent or more nonmilk fat (or oil), aerated products, eggnog and yogurt), which are neither sterilized nor in hermetically sealed metal containers.

§ 1133.16 [Reserved]

§ 1133.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

§ 1133.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which includes members who are producers as defined in § 1133.12 and which the Secretary determines after application by the association:

(a) To be qualified under the standards set forth in the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have its entire organization and all its activities under the control of its members; and

(c) To be currently engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1133.30 Reports of receipts and utilization.

On or before the 7th day of each month, each handler except a producer-handler or a handler making payments pursuant to § 1133.76(b), shall report to the market administrator in the detail and on the forms prescribed by the market administrator the following information for the preceding month:

(a) Each handler operating pool plants shall report the quantities of skim milk and butterfat in:

(1) Receipts of each such plant in:

(i) Producer milk, showing separately that to be classified pursuant to § 1133.42(b);

(ii) Fluid milk products received from other pool plants; and

(iii) Other source milk;

(2) Opening inventories of fluid milk products;

(3) The utilization in each class of the quantities required to be reported, including separate statements of quantities (i) in inventories of fluid milk products on hand at the end of the month, (ii) in route disposition outside the marketing area, and (iii) of in-area and outside area route disposition of filled milk; and

(4) Such other information with respect to receipts and utilization as the market administrator may request.

(b) Each handler specified in § 1133.9(d) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of producer milk; such report shall include a separate statement showing the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area; and

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1133.9 (b) and (c) as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 1133.9(b)(1);

(3) The quantities delivered to each pool plant of another handler pursuant to § 1133.9 (b)(2) and (c); and

(4) Such other information as the market administrator may require.

§ 1133.31 Payroll reports.

On or before the 20th day of each month, each handler except one exempt pursuant to § 1133.7(d)(2) or one making payments pursuant to § 1133.76(b), shall submit to the market administrator his producer payroll (or in the case of a handler making payments pursuant to § 1133.76(a), his payroll for dairy farmers delivering Grade A milk) for deliveries made the preceding month which shall show for each producer:

(a) The name and address of the producer or dairy farmer;

(b) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from such producer and the number of days (provided that the number of days shall not exceed the number of calendar days in the month) on which milk was received from such producer; and

(c) The price, amount, and date of payment with the nature and amount of any deductions.

§ 1133.32 Other reports.

(a) Each producer-handler, each handler pursuant to § 1133.7(d)(2) and each handler making payments pursuant to § 1133.76(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler dumping skim milk shall give the market administrator not less than 6 hours' notice of intention to make such disposition and of the quantities of skim milk involved. In addition, each handler dumping skim milk shall mail or deliver to the market administrator within 48 hours following each dumping not witnessed by the market administrator or his agent, a report in writing, as prescribed by the market administrator, showing the date on which the dumping was made and the quantity dumped, such report to be signed by both the person who dumped the skim milk and the person authorized to sign reports for the handler made pursuant to § 1133.30 (if the latter person is not available to sign the report within the 48-hour period, the signature of the plant manager or plant superintendent shall be substituted on the report).

(c) The operator of a plant specified in § 1133.7(d)(2) shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(d) In making payments to producers pursuant to § 1133.73(b), each handler on or before the 17th day after the end of each month, for milk received during such month, shall furnish each producer 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 total pounds (and the pounds of base and excess milk), and the average butterfat content of milk received from such producer;

(3) The minimum rate at which payment to such producer is required pursuant to § 1133.73;

(4) The rate which is used in making payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) In making payments to a cooperative association pursuant to § 1133.73(c) each handler upon request shall furnish to the cooperative association on or before the 20th day of the month with respect to milk received during the first half of the month and on or before the 7th day of the month with respect to milk received during the last half of the previous month for each producer for whom such payment is made, the information specified in subparagraphs (1), (2), and (5) of paragraph (a) of this section, and the daily weights of milk purchased from each of the association's member producers; and

(f) In addition to the reports required pursuant to §§ 1133.30 and 1133.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1133.40 Classes of utilization.

Subject to the conditions set forth in §§ 1133.41 and 1133.42, the classes of utilization shall be as follows:

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

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except:

(i) any products fortified with added nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of milk, skim milk, or cream of the same butterfat content; and

(ii) As classified pursuant to paragraphs (c)(2) and (3) of this section; or

(2) Not otherwise specifically accounted for as Class II or Class III utilization;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce ice cream, ice cream mix, frozen desserts, cocoa mixes and cottage, pot and bakers' cheese; and

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product or a Class II product;

(2) In skim milk:

(i) Disposed of for livestock feed;

(ii) Dumped pursuant to the conditions specified in § 1133.32(b); and

(iii) In fluid milk products which are excepted from Class I milk pursuant to paragraph (a)(1)(i) of this section;

(3) Disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(4) Contained in inventories of fluid milk products on hand at the end of the month;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1133.41(b)(1) but not to exceed the following:

(i) Two percent of receipts at a pool plant of producer milk pursuant to § 1133.13(a) (1) and (2) and, with respect to a cooperative association, producer milk for which it is the handler pursuant to § 1133.9 (b) or (c); plus

(ii) 1.5 percent of receipts from a cooperative association in its capacity as a handler pursuant to § 1133.9 (b) or (c), except that if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations, the applicable percentage shall be 2 percent; plus

(iii) 1.5 percent of receipts in bulk tank lots from other pool plants; plus

(iv) 1.5 percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II or Class III utilization was requested by the operator of such plant and the handler; plus

(v) 1.5 percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; less

(vi) 1.5 percent of disposition in bulk tank lots to other milk plants (when the exception specified in subdivision (ii) of this subparagraph applies, the applicable percentage shall be 2 percent); plus

(vii) 0.5 percent of milk received by a cooperative association handler pursuant to § 1133.9 (b) and (c) from producers as determined by farm tests and weights measured by farm bulk tank calibrations unless the exception in subparagraph 5(ii) of this paragraph applies; and

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1133.41(b)(2).

§ 1133.41 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 1133.40(c)(5); and (2) skim milk and butterfat in other source milk received in the form of fluid

milk products, exclusive of that specified in § 1133.40(c)(5).

§ 1133.42 Classification of transfers and diversions.

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

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

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1133.44(a)(8) and the corresponding step of § 1133.44(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1133.44(a)(3) and the corresponding step of § 1133.44(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1133.44(a)(7) or (8) and the corresponding step of § 1133.44(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As producer milk in the transferee plant, if transferred as bulk milk to the pool plant of another handler by a cooperative association in its capacity as a handler pursuant to § 1133.9(b)(2) or (c). Such milk shall be excluded from producer milk to be classified as that of the cooperative association;

(c) As Class I milk, if transferred from a pool plant to a producer-handler, or to a State institution;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1133.30 for the month within which such transaction occurred;

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

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

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

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

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

(iv) Class II utilization shall next be assigned to remaining receipts in the sequence provided in subdivision (iii) of this subparagraph (3). To the extent that neither Class I nor Class II utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class III milk; and

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

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

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

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

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

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

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1133.40.

§ 1133.43 General classification rules.

In determining the classification of producer milk pursuant to § 1133.44, the following rules shall apply:

(a) For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in each class for such handler at all of his pool plants; and

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all the water originally associated with such solids.

§ 1133.44 Classification of producer milk.

After making the computations pursuant to § 1133.43(a), the market administrator shall determine the classification of producer milk for each handler as follows:

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

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

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

(ii) From Class III the pounds of skim milk classified as Class III milk pursuant to § 1133.40(c)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from

other order plants, except that to be subtracted pursuant to subparagraph (3) (v) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

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

(2a) Subtract from the total pounds of skim milk in Class II the pounds of skim milk in products other than fluid milk products that are used (directly or as a reconstituted fluid milk product) to produce Class II products;

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

(i) Other source milk (that was not subtracted pursuant to subparagraph (2a) of this paragraph) in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

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

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(4) Subtract, in the order specified below, in sequence beginning with Class III from the pounds of skim milk remaining in Classes II and III, but not in excess of such quantity;

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraph (1) (i) or (3) (iv) of this paragraph;

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

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants, that were not subtracted pursuant to subparagraph (3) (v) of this paragraph;

(ii) Receipts of fluid milk products in bulk from another order plant, that were not subtracted pursuant to subparagraph (3) (v) of this paragraph, in excess of similar transfers to such plant, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

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

(7) Subtract from the pounds of skim milk remaining in each class pro rata to such quantities the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraphs (1) (i), (3) (iv), or (4) (i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from another order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (3) (v) or (4) (ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1133.45(a) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1133.42(a);

(10) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1133.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1133.44(a) (8) and the corresponding step of § 1133.44(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1133.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report;

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report; and

(d) On or before the 16th day after the end of each month, report to each cooperative association (or its duly designated agent) which so requests the class utilization of milk delivered by such cooperative association pursuant to § 1133.9 (b) (2) and (c) or from its member producers to each handler. For the purpose of this report, the milk caused to be so delivered by such cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

CLASS PRICES

§ 1133.50 Class prices.

Subject to the provisions of § 1133.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceeding month plus $1.95.

(b) *Class II price.* The Class II price shall be the price computed pursuant to paragraph (c) of this section, plus 25 cents per hundredweight.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter at Chicago as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 48 cents, and round to the nearest cent.

§ 1133.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for

manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1133.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located more than 90 miles by shortest highway distance as measured by the market administrator, from the City Hall in Spokane, Wash., and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1133.50(a) shall be reduced by two cents for each 10 miles or fraction thereof, up to 200 miles and one cent for each 10 miles or fraction thereof, in excess of 200 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from such plant to the City Hall, Spokane, Wash.;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1133.9 (b) (2) and (c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment 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; and

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

§ 1133.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before the 5th day of each month:

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

(b) The Class I butterfat differential for the current month; and

(c) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month.

§ 1133.54 Equivalent price.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

§ 1133.55 Handler butterfat differentials.

If the average butterfat content of Class I milk, Class II milk or Class III milk, computed pursuant to § 1133.43(a), for any handler for any month differs from 3.5 percent, there shall be added to, or subtracted from, the applicable class price (§ 1133.50) for each one-tenth of 1 percent that the average butterfat content of such class is respectively above, or below, 3.5 percent, a butterfat differential computed by the market administrator as follows:

(a) *Class I milk.* The simple average of the wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter at Chicago, as reported by the Department during the preceding month, multiply by 0.123, and round to the nearest tenth of a cent.

(b) *Class II milk and Class III milk.* The simple average of the wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter at Chicago as reported by the Department during the month, multiply by 0.115 and round to the nearest tenth of a cent.

UNIFORM PRICE

§ 1133.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1133.9 (b) and (c) as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1133.44(c), by the applicable class prices (adjusted pursuant to §§ 1133.52 and 1133.55);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1133.44(a) (10) and the corresponding step of § 1133.44(b) by the applicable class prices;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1133.44(a) (5) and the corresponding step of § 1133.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The pounds of skim milk and butterfat subtracted from Class II milk pursuant to § 1133.44(a) (5) and the corresponding step of § 1133.44(b) for the current month; or

(ii) The pounds of skim milk and butterfat remaining in Class III milk after the calculations pursuant to § 1133.44(a) (8) and the corresponding step of § 1133.44(b) for the preceding month, less the pounds used in computation pursuant to subparagraph (1) of this paragraph;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1133.44(a) (3) and the corresponding step of § 1133.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1133.44 (a) (3) (iv) and (v) and the corresponding step of § 1133.44(b) the Class I price shall be adjusted to the location of the transferor plant;

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received with respect to the skim milk and butterfat subtracted from Class I pursuant to § 1133.44(a) (7) and the corresponding step of § 1133.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(f) Add or subtract the amount necessary to correct errors disclosed by the verification of reports of receipts and utilization of skim milk and butterfat in previous months for which payment has not been made.

§ 1133.61 Computation of uniform prices for base and excess milk (including weighted average price).

(a) For each month the market administrator shall compute the uniform and weighted average prices per hundredweight of milk as follows:

(1) Combine into one total the values computed pursuant to § 1133.60 for all handlers who filed the reports prescribed by § 1133.30 for the month and who made the payments pursuant to § 1133.71 for the preceding month;

(2) Add an amount equal to the total value of the location differentials computed pursuant to § 1133.75;

(3) Subtract, if the average butterfat content of the milk specified in subparagraph (5) of this paragraph is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1133.74 and multiplying the result by the total hundredweight of such milk;

(4) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

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

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1133.60 (e);

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the weighted average price.

(b) For each month the market administrator shall compute uniform prices for base milk and excess milk as follows:

(1) Determine the aggregate amount of producer milk in each class included in the computation pursuant to paragraph (a) of this section and the hundredweight of such milk that is base milk and that is excess milk;

(2) Determine the value of the total hundredweight of milk of producers specified in § 1133.93 (c) and (d) to whom no base milk has been assigned by multiplying such volume by the Class III price;

(3) Determine the total value of excess milk by assigning such milk in series beginning with Class III to the hundredweight of milk in each class as determined pursuant to subparagraph (1) of this paragraph, multiplying the quantities so assigned by the respective class prices for milk containing 3.5 percent butterfat content and adding together the resulting amounts;

(4) Divide the total value of excess milk in subparagraph (3) of this paragraph by the total hundredweight of such milk. The quotient, rounded to the nearest cent, shall be the uniform price for excess milk of 3.5 percent butterfat content;

(5) Multiply the total hundredweight of excess milk by the uniform price for excess milk computed pursuant to subparagraph (3) of this paragraph;

(6) Multiply the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price for the month;

(7) Subtract the total values arrived at in subparagraphs (2), (5), and (6) of this paragraph from the amount resulting from the computations pursuant to paragraphs (a)(1) through (a)(4) of this section; and

(8) Divide the amount obtained in subparagraph (7) of this paragraph by the total hundredweight of base milk determined in subparagraph (1) of this paragraph and subtract not less than 4 nor more than 5 cents per hundredweight. The resulting figure rounded to the nearest cent, shall be the uniform price for base milk of 3.5 percent butterfat content.

§ 1133.62 Announcement of uniform prices and producer butterfat differential.

The market administrator shall announce publicly on or before the 12th day of each month:

(a) The producer butterfat differential for the preceding month; and

(b) The uniform prices for the preceding month.

Payments for Milk

§ 1133.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1133.71, 1133.76, and 1133.77 and out of which he shall make all payments to handlers pursuant to §§ 1133.72 and 1133.77.

§ 1133.71 Payments to the producer-settlement fund.

On or before the 14th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The sum of

(1) The total of the net pool obligation computed pursuant to § 1133.60 for such handler; and

(2) In the case of a cooperative association which is a handler, the minimum amount due from other handlers pursuant to § 1133.73(d);

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1133.73; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1133.60(e);

(c) Each handler operating a plant pursuant to § 1133.7(d)(2), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and subtract its value at the Class III price.

§ 1133.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1133.71(d) exceeds the amount computed pursuant to § 1133.71(a). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1133.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as specified in paragraphs (a) and (b) of this section:

(a) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received during the first 15 days of the month at not less than the Class III price for the preceding month.

(b) On or before the 17th day after the end of each month, each handler shall make payment to each producer for milk received from such producer during the month:

(1) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 1133.74 and by any location adjustment applicable under § 1133.75;

(2) At not less than the Class III price adjusted by the butterfat differential computed pursuant to § 1133.74 for the quantity of milk received from producers described in § 1133.93 (c) and (d) for whom no base milk has been computed;

(3) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1133.74 and by any location adjustment applicable under § 1133.75;

(4) Less payments made pursuant to paragraph (a) of this section; marketing service deductions pursuant to § 1133.86, and proper deductions authorized in writing by such producer; and

(5) If by such date such handler has not received full payment for such month pursuant to § 1133.72 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator. The handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payments for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall

pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association;

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination;

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1133.9(b)(2) and (c), shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) In making final settlement, the value of such milk at the applicable uniform price, less payment made pursuant to subparagraph (1) of this paragraph; and

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provisions of the Act.

§ 1133.74 Producer butterfat differential.

In making payments pursuant to § 1133.73(b) the uniform price for base milk and for excess milk shall be adjusted for each one-tenth of 1 percent of butterfat content in the milk of each producer above or below 3.5 percent as the case may be, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 1133.55, weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest tenth of a cent.

§ 1133.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for base milk shall be reduced according to the location of the plant where the milk was first actually received from producers at the rates set forth in § 1133.52; and

(b) For purposes of computations pursuant to §§ 1133.71 and 1133.72 the adjustments pursuant to this section shall be at the rates set forth in § 1133.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted price shall be not less than the Class III price.

§ 1133.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1133.30 and 1133.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1133.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1133.60(e), and a credit in the amount specified in § 1103.-71(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1133.30(b) and 1133.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1133.7(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plants for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk route disposition in the marketing area;

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

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

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

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

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the lowest class price of the respective order) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the lowest class price of the respective order.

§ 1133.77 Adjustment of Accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the fifth day after such notice.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1133.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk (including that classified pursuant to § 1133.42(b) and such handler's own farm production), (b) other source milk allocated to Class I pursuant to § 1133.44(a) (3) and (7) and the corresponding steps of § 1133.44 (b) except such other source milk on which no handler obligation applies pursuant to § 1133.60(e), and (c) Class I route disposition in the marketing area by partially regulated distributing plants that exceeds Class I milk:

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

(2) Specified in § 1133.76(b)(2)(ii).

§ 1133.86 Deductions for marketing services.

(a) Except as provided in paragraph (c) of this section, each handler, in making payments to producers pursuant to § 1133.73(b), shall deduct 5 cents per hundredweight of milk, or such lesser amount as the Secretary may prescribe (other than with respect to milk of such handler's own production), with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association;

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such association; and

(3) All milk received at a plant operated by a cooperative association(s) from producers who are members thereof but for whom any of the services set forth in paragraph (b) of this section are not being performed by such association(s), as determined by the market administrator.

(b) The deductions made pursuant to paragraph (a) of this section shall be paid to the market administrator on or before the 14th day after the end of each month. Such moneys shall be expended by the market administrator for the verification of weights, sampling, and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(c) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and taking of deduction therefor to, a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the market administrator determines that such association is performing the services described in paragraph (b) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1133.73(b), the amount per hundredweight of milk authorized by such producer and shall pay, on or before the 16th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

CLASS I BASE PLAN

§ 1133.90 Definitions relating to the Class I base plan.

For purposes of determination and assignment of the Class I base of each producer the following terms are defined:

(a) "Production history" means the average daily marketings of a producer during the production history period used for the determination of bases or the future updating of bases.

(b) "Production history base" means a quantity of milk in pounds per day as computed pursuant to § 1133.91.

(c) "Production history period" means the days or months to be used for the computation of the production history base of a producer.

(d) "Average daily producer milk deliveries" of any producer in any specified period used for computing a production history base means the total pounds of producer milk delivered by the producer divided by the number of calendar days in the period rounded to the nearest whole pound.

(e) "Class I base" means a quantity of milk in pounds per day computed pursuant to § 1133.93 for which a producer may receive the base milk price.

(f) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of calendar 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

(2) Milk received from a producer to whom no Class I base has been issued in the amount determined for such producer pursuant to § 1133.93 (c) and (d).

(g) "Excess milk" means milk in excess of base milk received during any designated period from a producer who during such period is delivering base milk.

§ 1133.91 Computation of production history base.

A "production history base" shall be determined by the market administrator for each producer eligible for such base on the effective date of this provision and on February 1 of each year thereafter. The computation of production history base shall be subject to adjustments resulting from the acquisition or disposition of Class I base by transfer. A production history base shall also be modified to reflect a decision by the hardship committee of an underdelivery of Class I base. For purposes of computation of his production history base, a producer shall be considered as having been on the market during any specified period if: As a producer he delivered milk of his own production during the designated period without interruption sufficient to cause forfeiture of base pursuant to § 1133'95(a); and during such period (after the effective date of this provision) did not dispose of his Class I base by transfer. The production history base for each eligible producer on the effective date of this provision shall be determined as follows:

(a) The market administrator, as soon as possible at the conclusion of each calendar year (January-December), shall determine the 4 months during which the average daily receipts of total producer milk were lowest. This shall be a "production history period."

(b) For producers who delivered milk during the production history period described in this section by computing his average daily producer milk deliveries as defined in § 1133.90(d).

(c) For producers who did not deliver in the year 1972 during the production history period described in this section but did deliver on or before July 1, 1972, and continuously until the effective date of this provision an average daily producer milk delivery shall be computed for the first 4 full months of milk deliveries with deliveries seasonally adjusted by multiplying the producer's average daily producer milk deliveries by the ratio of average daily total producer milk for the market in the 4 months of 1972 specified in paragraph (a) of this section to the average daily total producer milk in the market during the months used to compute a production history base for such producer.

(d) For each producer not subject to § 1133.93(d) who became a producer for this market subsequent to July 1, 1972, 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 as if the nonpool plant to which he delivered had been a pool plant during the production history period.

(e) A producer not described pursuant to paragraph (c) of this section who delivered milk to a nonpool plant prior to becoming a producer shall have a production history base effective on the first day of the third month after the month in which he began deliveries of producer milk to a pool plant (not to exceed 90 days) if a production history base can be computed pursuant to paragraph (a) or (b) of this section based on deliveries of milk from the same farm on which he is now a producer as if the plant to which he delivered had been a pool plant during the preceding 12 months.

(f) For a producer who held producer-handler status at any time subsequent to the effective date of this provision a production history base shall be computed as prescribed in this section as if the

milk of his own production received at his producer-handler plant had been received at a pool plant.

(g) With respect to the computation of production history base pursuant to this section, the following rules shall apply:

(1) If a producer operated more than one farm at the same time, a separate computation shall be made with respect to the average daily producer milk deliveries from each farm except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler.

(2) Only one production history base shall be allowed with respect to milk produced by one or more persons where the land, buildings, and equipment are jointly used, owned or operated.

§ 1133.92 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 § 1133.95(a) or after having disposed of his entire base by transfer or forfeiture, has met the delivery requirements prescribed in § 1133.91 shall be determined by the market administrator on February 1 of each year as follows:

(a) Effective February 1, 1974, the market administrator shall update the production history base for each producer as follows:

(1) Subject to the provisions of subdivisions (i), (ii), and (iii) of this subparagraph for a producer who is assigned an initial history of production pursuant to § 1133.91(b) on the effective date of this order, add the average daily milk deliveries of such producer during the production history period for 1973, as determined by the market administrator pursuant to § 1133.91(a), to the production history computed for such producer on the effective date of this order and divide the result by two:

(i) If during the immediately preceding production history period the producer's daily average producer milk deliveries are greater than his previously assigned production history, his production history shall not be increased by more than one-third of his increase in production: (ii) If during the immediately preceding production history period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: (iii) If during the immediately preceding production history period the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding production history period.

(2) For eligible producers who had not previously been assigned a production history base, a history of production shall be determined by calculating such producer's average daily producer milk deliveries during the production history period for 1973 multiplying the result by 0.60.

(b) Effective February 1, 1975, the market administrator shall update the production history base for each producer as follows:

(1) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for a producer who had a 2-year production history base, determine the average daily producer milk deliveries during the immediately preceding production history period. Add the resulting amount of the production history determined for each of the two preceding production history periods and divide the result by 3: (i) If during the immediately preceding production history period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: (ii) If during the immediately preceding production history period the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his daily deliveries during the immediately preceding production history period.

(2) Subject to the provisions of subdivisions (i), (ii), and (iii) of this subparagraph for a producer who had a production history base for 1 year, the market administrator shall determine his average daily deliveries during the immediately preceding production history and add such amount to the producer's previous production history, divide the result by two and multiply by 0.80: (i) If during the immediately preceding production history period the producer's daily average producer milk deliveries are greater than his previously assigned production history, his production history shall not be increased by more than one-third of his increase in production: (ii) If during the immediately preceding production history period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: (iii) If during the immediately preceding production history period the producer's average daily producer milk deliveries were less than his daily Class I base, then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding production history period.

(3) For eligible producers who have not previously been assigned a production history base, the market administrator shall assign a production history equal to such producer's average daily producer milk deliveries during the immediately preceding production history period and multiply the result by 0.60.

(c) Effective February 1, 1976, and on February 1 of each year thereafter the market administrator shall update the history of production for each producer as follows:

(1) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for producers who have a production history base covering 3 or more production history periods, the market administration shall compute the average daily producer milk deliveries for such producer during the immediately preceding production history period and shall add such figure to the average daily producer milk deliveries of the preceding two production history periods and divide the result by three: (i) If during the immediately preceding production history period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: (ii) If during the immediately preceding production history period the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding production history period.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph for a producer who had a 2-year production history base, determine the average producer milk deliveries during the immediately preceding production history period. Add the resulting amount to the production history determined for each of the two preceding production history periods and divide the result by three: (i) If during the immediately preceding production history period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: (ii) If during the immediately preceding production history period the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his daily deliveries during the immediately preceding production history period.

(3) Subject to the provisions of subdivisions (i), (ii), and (iii) of this subparagraph for a producer who had a production history base for 1 year, the market administrator shall determine his average daily producer milk deliveries during the immediately preceding production history period and add such amount to the producer's previous production history and divide the result by 2 and multiply by 0.80:

(i) If during the immediately preceding production history period the producer's daily average producer milk deliveries are greater than his previously assigned production history, his production history shall not be increased by

more than one-third of his increase in production:

(ii) If during the immediately preceding production history period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced:

(iii) If during the immediately preceding production history period the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding production history period.

(4) For producers who have not previously been assigned a production history base, the market administrator shall assign a production history equal to such producer's average daily producer milk deliveries during the immediately preceding production history period and multiply the result by 0.60.

§ 1133.93 Computation of Class I base or base milk.

On the effective date of this provision and on 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 paragraphs (d) and (e) of § 1133.91 and paragraph (c) of this section when they are issued production history bases. 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 from the following:

(i) Class I producer milk pursuant to § 1133.44(c);

(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 his own production of a person who was a producer-handler during a portion of the preceding calendar year and who held producer statu: in the preceding December.

Multiply the sum by 1.20 and divide the result by the number of days in such year.

(2) Divide the quantity computed pursuant to subparagraph (1) of this paragraph by a quantity which is the total of production history bases computed pursuant to § 1133.91 and/or § 1133.92. 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."

(c) A producer other than a producer pursuant to paragraph (d) of this section, who has no production history base shall be assigned base milk each month effective on the first day of the third month after the month in which he began deliveries of producer milk (not to exceed 90 days) to a pool plant: *Provided,* That, for producers who began deliveries of producer milk after July 1, 1972, but before 90 days from the effective date of this provision shall have a base milk assignment determined beginning with the effective date of this provision. Such base milk for each month prior to the first February 1 on which he is eligible for a Class I base shall be computed as follows:

(1) Multiply the quantity of producer milk delivered by the producer during the month by the ratio of average daily total producer milk in the market during the production history period in the preceding year to the average daily total producer milk in the market in the month of the year preceding this calculation which corresponds to the current month for which Class I base assignment is being computed.

(2) Multiply the quantity resulting from the computation pursuant to subparagraph (1) of this paragraph by 40 percent and by the Class I base percentage, and if such producer began production after the effective date of this provision, or is a producer described in paragraph (d) of this section, subtract from the resulting quantity 20 percent of such quantity rounding in either event to the nearest whole number.

(d) A producer who, after having forfeited or disposed of all of his Class I base either continues as a producer on the market or discontinues deliveries to the market and returns to the market as a producer, shall be assigned base milk computed in the manner specified in paragraph (c) (1) and (2) of this section, such assignment to be effective on the later of the following dates: the first day of the third month following the month in which he resumes deliveries of producer milk on the market or the first day of the seventh month following the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. The production history period of such producer shall begin on the later of the following dates: the date on which he first received payment for base milk or the first month eligible for use in a production history period pursuant to § 1133.91.

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. It shall be applied also to any production facility to which a Class I base has not been assigned, wherever located, 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.

§ 1133.94 Transfer of bases.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of the Class I base prior to the first day of the month of transfer of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer and the amount of base to be transferred if less than the entire Class I base held by the transferor.

(c) It must be established to the satisfaction of the market administrator that the conveyance of such 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.

(d) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(e) A transfer of Class I base may be made in amounts of not less than 150 pounds or the entire base, whichever is smaller. The amount of base credited to the transferee shall be two-thirds of the Class I base disposed of by the transferor producer.

(f) A transfer of a portion of a Class I base shall be a partial transfer and shall be effective only on the first day of a month. A transfer where the transferee producer will combine the Class I base received with Class I base already held shall be considered a partial transfer.

(g) A transfer of a complete Class I base of a producer to a person who does not hold a Class I base will be effective on the date of transfer of herd and farm, or on the first day of the month if no herd and farm is transferred, provided in either case that a base transfer request was made to the market administrator on or before the first day of the month of transfer.

(h) An intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) will not be subject to a one-third lapse of base, provided that the transfer implements a continuous operation on the same farm with the same herd. All restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

For purposes of the transfer provisions "intrafamily" means the following members of the immediate family:

Husband or wife.	Stepfather or stepmother.
Son or daughter (natural or adopted).	Stepbrother or stepsister.
Brother or sister.	Son-in-law or daughter-in-law.
Father or mother.	Father-in-law or mother-in-law.
Grandfather or grandmother.	Brother-in-law or sister-in-law.
Grandson or granddaughter.	Uncle or aunt.
Stepson or Stepdaughter.	Nephew or niece.

(i) A producer who receives a base pursuant to § 1133.91 (d) or (e) may not transfer such base, other than pursuant to paragraph (h) of this section, for 1 year from the date of receipt.

(j) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 3 years from the date of receipt, except to a member of the immediate family pursuant to paragraph (h) of this section.

(k) A base which has been computed from less than a full production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (h) of this section.

(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 will require a transfer of bases and compliance with all base rules therein.

§ 1133.95 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 60 consecutive days after a Class I base is issued to him 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 them 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, and to the cooperative association of which the producer is a member.

(c) As a condition for designation as a producer-handler pursuant to § 1133.10, 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 bases held at any time during such 12-month period.

§ 1133.96 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1133.91 through 1133.93 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 buildings, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, ecological constraints, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1133.93;

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1133.91;

(5) Inability to transfer base due to the provisions of § 1133.94 (i), (j), or (k);

(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 § 1133.93(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 requests 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 subparagraphs (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 produced 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 § 1133.85 for their services at $20 per day or portion thereof, plus necessary travel and subsistence expenses 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.

COMPUTATION OF UNIFORM PRICE FOR PRODUCER MILK

The following provisions are necessary to effectuate the continued operation of the order in the event producers voting individually in a separate referendum fail to approve the Class I base plan or if the statutory authority for such plan is terminated while it is in effect after its incorporation in the order. In such event, the preceding order provisions shall be modified as specified below.

1. In § 1133.32(d), subparagraph (2) is revised as follows:

§ 1133.32 Other reports.

* * * * *

(d) * * *

(2) The total pounds and the average butterfat content of milk received from such producer;

* * * * *

2. Section 1133.61(a)(6) is revised as follows:

§ 1133.61 Computation of the weighted average price and uniform price for producer milk.

(a) For each month the market administrator shall compute a uniform price for producer milk and a weighted average price for all milk as follows:

* * * * *

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be known as the uniform price for producer milk and the weighted average price for all milk.

3. In § 1133.62, the subheading and paragraph (b) are revised as follows:

§ 1133.62 Announcement of uniform price and producer butterfat differential.

* * * * *

(b) The uniform price for the preceding month.

4. In § 1133.73, paragraph (b) is revised as follows:

§ 1133.73 Payments to producers and to cooperative associations.

* * * * *

(b) On or before the 17th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1133.61 subject to the butterfat differential computed pursuant to § 1133.74 and location adjustment computed pursuant to § 1133.75 and less (1) payments made pursuant to paragraph (a) of this section, (2) marketing service deductions pursuant to § 1133.86, and (3) proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 1133.72 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

* * * * *

§ 1133.74 [Amended]

5. In § 1133.74, the words "for base milk and for excess milk" are deleted.

6. In § 1133.75, paragraph (a) is revised as follows:

§ 1133.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1133.52; and

* * * * *

§ 1133.86 [Amended]

§§ 1133.90, 1133.91, 1133.92, 1133.93, 1133.94, 1133.95, 1133.96 [Revoked]

7. The centerhead "Class I Base Plan" following § 1133.86 and §§ 1133.90, 1133.91, 1133.92, 1133.93, 1133.94, 1133.95, and 1133.96 are revoked.

[FR Doc.72-21007 Filed 12-6-72;8:48 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 891]

BEET SUGAR AREA

General Conditional Payments Provisions

Pursuant to the provisions of the Sugar Act of 1948, as amended, notice is hereby given that the Department of Agriculture proposes to issue a revised regulation governing the conditional payments provisions of the Sugar Act of 1948, as amended, in the Beet Sugar Area effective with respect to 1973 and subsequent crop years. This proposed revision incorporates Parts 831, 841, 842, 849, and 895, of Chapter VIII, Title 7 of the Code of Federal Regulations.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250. In order to be assured of consideration, submissions should be made within 30 days after the 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 in the office of the Director, at the above address during regular business hours (7 CFR 1.27(b)).

As proposed, the revised Part 891 will read as follows:

PART 891—GENERAL CONDITIONAL PAYMENTS PROVISIONS—BEET SUGAR AREA

Subpart A—General

Subpart B—Determination of Compliance With Conditions of Payments

Subpart C—Prevented Acreage Credit

Subpart D—Released Share Acreage Credit

Subpart E—Determination of Normal Yields and Eligibility for Abandonment and Crop Deficiency Payments

Subpart F—Determination of Sugar Commercially Recoverable

AUTHORITY: The provisions of this Part 891 issued under secs. 301, 302, 303, 304, 305, 306, 403, 61 Stat. 929, as amended, 930, as amended, 931, 932; 7 U.S.C. 1131, 1132, 1133, 1134, 1135, 1136, 1153.

Subpart A—General

§ 891.1 Purpose.

This part prescribes the authorizations and procedures applicable to the Beet Sugar Area under Title III, Conditional Payments Provisions, of the Sugar Act of 1948, as amended, effective for 1973 and subsequent crop years.

§ 891.2 Definitions.

For the purpose of this part, the term:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(b) "Deputy Administrator" or "DASCO" means the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(c) "State Committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State Committee under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(d) "State Executive Director" means the person responsible for the day-to-day operations of the Agricultural Stabilization and Conservation Service State Office (herein referred to as State Office) or any employee of such office authorized to act on his behalf.

(e) "County Committee" means the persons elected within a county as the County Committee pursuant to regulations governing the selection and function of Agricultural Stabilization and Conservation County and Community Committees under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(f) "County Executive Director" means the person responsible for the day-to-day operations of the Agricultural Stabilization and Conservation Service County Office (herein referred to as County Office).

(g) "Act" or "Sugar Act" means the Sugar Act of 1948, as amended.

(h) "Producer" means a person who is the legal owner, at the time of harvest or abandonment, of a portion or all of a crop of sugar beets grown on a farm for the extraction of sugar or liquid sugar.

(i) "Processor-producer" means a producer who is determined to be also a processor. A producer shall be deemed to be also a processor:

(1) If such producer is directly engaged in the processing of sugar beets for sugar;

(2) If such producer, whether alone or in conjunction with others, controls a person directly engaged in the processing of sugar beets for sugar, either by stock ownership or otherwise; or

(3) If such producer is controlled, whether through stock ownership or otherwise, by a person directly engaged in the processing of sugar beets for sugar.

(j) "Farm" means all land within a State farmed by the same operator and shall include, in addition, any land in an adjoining State or States farmed by such operator, if any of the equipment or labor used in the operation of the land in one State is also used in the operation of the land in the other State or States.

(k) "Operator" means, the producer (or producers) who has general control of the sugar beet operations on the farm. Guides of the county committee for determining the "operator" of a farm are set forth in subparagraphs (1) to (7), inclusive, of this paragraph.

(1) The county committee shall determine the person (or persons acting together) who is a producer, as defined in paragraph (h) of this section, of the sugarbeet crop and who has general control of the sugar beet operations and, hence, is the operator of all lands on which sugar beet operations are under his general control. The county committee shall determine the land that constitutes a farm in accordance with the definition of a farm in paragraph (j) of this section. To assist the county committee in determining who controls a sugar beet operation, there are set forth as follows certain factors that shall be given careful consideration in determining the operator of a farm. In developing information as to who controls a sugar beet operation where a partnership or legal entity such as a corporation is involved, the county committee shall consider whether an individual rather than the partnership or legal entity has the general control of the sugar beet operations and is a producer, as defined in paragraph (h) of this section, of the sugar beet crop.

(2) As possible indicia of control of a sugar beet operation, the county committee shall ascertain the producer who performs the following functions: (i) Controls the land (by ownership or lease); (ii) arranges for financing and is responsible for repayment of any loans or advances; (iii) arranges for and pays labor; and (iv) manages the sugar beet operations and makes the decisions with respect thereto.

(3) Also, as an indication of control over a sugar beet operation, the county committee shall ascertain whether a written record of accounts covering costs and income from such operations is maintained separately from that of any other operation in which the persons involved have an interest.

(4) Generally, the person (or persons acting together) who directs the sugar beet operation and who has the authority to make the final decisions with respect to growing, harvesting and marketing the crop shall be considered as controlling the operation and, hence, the operator of the farm. Often, such person performs the actual farming functions himself. Usually, such person (or persons) also has the majority financial interest in the crop, either by direct ownership or indirectly by stock ownership or otherwise.

(5) Wherever a person has a substantial interest in more than one sugar beet operation, the county committee shall determine whether such operations are, in fact, separate and do not constitute a device to avoid the scale-down provisions of the Sugar Act.

(6) The fact that a person has a substantial interest or the majority financial interest in the crop of sugar beets does not preclude the country committee from determining that he is not the operator where it can be shown to the satisfaction of the committee that in consideration of other pertinent factors another person is a producer of the crop and controls the operations. Also, since the definition of a producer has been construed over a long period of time as not including a creditor whose only interest in a crop results from a lien upon a crop of sugar beets, such a creditor by not being a producer of such crop would not qualify as the operator of the land on which such crop was produced. For purposes of determining whether a person qualifies as a producer, as defined, the county committee should take into consideration that bare legal title does not solely determine the legal owner.

(7) In the following situations, it would appear that control of the sugar beet operations would be as indicated:

(i) Where two or more persons have the same ownership interest in a crop of sugar beets growing or grown on one or more tracts of land, and they are the only persons engaged in farming operations on such land, they will, generally, be considered as the operator of all of such land. However, if one or more of such persons is determined by the county committee as exercising control, he or they shall be considered as the operator.

(ii) Where a husband and wife not legally separated by judgment of a court are both engaged in the production of sugar beets and one of them shares in the crop produced on the land of the other, if the county committee determines that the one who shares in the crop of the other also controls the sugar beet operations of the other, the spouse exercising the control would be considered as the operator. If neither spouse shares in the sugar beet crop of the other, or the county committee determines that the indicia of control justify a conclusion that separate operations are involved, each such spouse would be considered as a separate operator.

(iii) If a minor child and a parent live in the same household and each is engaged in the product of sugar beets, the parent who is a producer of the crop would be considered the operator unless the county committee is satisfied that the minor child controls his sugar beet operations. However, the cosigning of a note by a parent to enable the child to obtain financing shall not of itself be considered as representing control by the parent. Any land farmed by a minor as a Future Farmers of America or 4–H project shall be considered a part of the parent's farm unless the land on which the sugar beets are grown is leased by the minor from someone other than the parent and the parent has no control over the operation.

(l) "Ownership tract" means a farm or portion of a farm which is separately owned.

(m) "Proportionate share" or "share" means the proportionate share for a farm in terms of planted acreage as provided in sections 301 and 302 of the Act.

(n) "Planted acres" means the acreage of sugar beets within the farm proportionate share which was (1) harvested for the extraction of sugar, (2) abandoned (bona fide) insofar as its use in sugar production is concerned, because of drought, flood, storm, freeze, disease, or insects, or (3) any other acreage seeded to sugar beets for the production of sugar on lands suitable for the production of the crop and which was cared for during the growing season in a workmanlike manner.

(o) "Abandoned acres" means the planted sugar beet acreage on the farm (not in excess of the farm's share minus the acreage harvested for sugar) which meets all the requirements specified in § 891.4 with respect to approved abandoned acreage.

(p) "Harvested acres" means the acreage from which sugar beets were taken out of the ground preparatory to marketing for the extraction of sugar, when the completion of such marketing can be reasonably anticipated. Sugar beets which have merely been lifted or loosened shall not be classified as harvested. However, such acreage may be considered for classification as abandoned acreage pursuant to § 891.41.

(q) "Prevented acreage" means the number of acres on a farm (when shares are not in effect): (1) Which the county committee determines would have been seeded to sugar beets of a crop for the production of sugar, but were not seeded to sugar beets because of drought, flood, storm, freeze, disease, or insects, or on approval of DASCO because of other similar abnormal or uncontrollable conditions, or (2) which the county committee upon prior approval of DASCO determines were seeded to sugar beets of a crop and were not harvested for the extraction of sugar because of abnormal and uncontrollable natural conditions such as wild animals or an intervening force of nature, but which could not be determined by a member of the county committee to be bona fide abandoned

acreage because the reason for the abandonment was not drought, flood, storm, freeze, disease, or insects.

(r) "Released share acreage" means the number of acres of the farm proportionate share initially established for the farm as adjusted by appeal (or tentative share in a personal history area), which the county committee determines will not be planted on a farm in any crop year, when shares are in effect, because of a crop rotation program or for other reason beyond the control of the producer. "Other reasons beyond the control of the producer" are limited to the following circumstances that cause an operator to be unable to utilize all or a portion of the farm proportionate share acreage established for his farm:

(1) The operator is unavoidably absent or incapable and, therefore, cannot fully utilize his proportionate share, and arrangements cannot be made for the production of sugar beets on his land through a management or customwork type of operation;

(2) Planting is prevented by flood, drought, storm, freeze, disease, insects, or other similar abnormal and uncontrollable natural conditions;

(3) A sugar beet processing company contracts to purchase from a farm operator sugar beets produced on some but not all proportionate share acreage established for his farm, or does not offer a contract to a farm operator to purchase sugar beets which could be produced on the proportionate share acreage established for his farm.

(4) A sugar beet processing company contracts or offers to contract to purchase sugar beets to be produced on the proportionate share acreage established for the farm but the operator does not plant all or a portion of the proportionate share acreage because the company is abandoning sugar beet processing operations.

(s) "Accredited acreage" or "accredited acres" for any crop year means the acres on the farm (within the share for such farm if shares are in effect), but excluding any acreage for which credit may not be given pursuant to § 891.38, which are determined by the county committee to have been: (1) Harvested for the extraction of sugar, (2) bona fide abandoned to the extent of fulfilling the requirement for abandonment set forth in § 891.41, as shown by records of the county office, (3) seeded to sugar beets for the production of sugar on lands suitable for the production of the crop and cared for during the growing season in a workmanlike manner, (4) prevented acres approved for the farm or recorded for the allotment area pursuant to § 891.30, or (5) released share acres approved for the farm pursuant to § 891.35.

(t) "Personal history area" means any State or substantial portion thereof in which the personal sugar beet production history of farm operators was used generally prior to 1962 in establishing shares or where shares were not established prior to 1962 and the State committee is authorized by DASCO to use personal history of operators.

(u) "Farm history area" means any sugar beet production area which is not a personal history area.

(v) "Cropland" means the land suitable for the production of sugar beets on the farm.

(w) "Crop" or "crop year" means a crop of sugar beets designated by year. In southern California (including the counties of Imperial, San Diego, Riverside, Orange, San Bernardino, and that part of Los Angeles County lying south of the San Gabriel Mountains and in any other State, a crop of sugar beets shall be designated by year to correspond with the calendar year in which the beets are planted. In other areas of California, a crop of sugar beets planted during the period beginning November 1, of one calendar year and ending October 31 of the following calendar year shall be designated by year to correspond with such following calendar year.

(x) "Annual yield for the farm" means the average yield in hundredweight of sugar commercially recoverable per planted acre, as computed from the production records applicable to all of the land constituting the farm in the crop year for which such annual yield is established.

(y) "County yield" means the average hundredweight of sugar commercially recoverable per planted acre in the county in a crop year, except that if the total number of farms producing such sugar beets was less than five for any such year, the county yield for such year shall be the yield established by the State committee on the basis of the yield which could have been reasonably expected that year in such county considering weather conditions and the yields obtained from other crops.

(z) "County normal yield" means the simple average of the county ~~yields~~ for three or more of the next preceding 5 crop years for which county yields are established. If county yields are established for less than 3 of such years on the basis of the yields which could have been reasonably expected in such years, the county normal yield shall be the yield established by the State committee on the basis of the yield which could have been reasonably expected in the county during such years considering weather conditions and the yields obtained from other crops.

(z–1) "Commercially recoverable sugar" means the amount of sugar, in hundredweight raw value, determined annually as commercially recoverable from sugar beets grown on a farm in the Beet Sugar Area and marketed (or processed) for the extraction of sugar.

(z–2) "Beet Sugar Area" means those States where sugar beets are grown and marketed (or processed) for the extraction of sugar.

§ 891.3 Instructions and forms.

DASCO shall cause to be prepared such forms and internal management instructions as are necessary for carrying out the regulations in this part and regulations hereafter issued. These forms, instructions, and data pertaining to the individual farms are available in the county office of the county in which the farm headquarters is located, or in the absence of a farm headquarters, in the county office of the county in which the major portion of land suitable for the production of sugar beets on the farm is located. A list of forms prescribed for the conditional payment program in the Beet Sugar Area is set forth in § 891.6.

§ 891.4 Filing application for payment.

(a) *Form to be used.* Applications for payments authorized under title III of the Act with respect to sugar commercially recoverable from sugar beets grown on a farm, as well as for acreage abandonment and crop deficiency payments, shall be made on Form SU–110.

(b) *Person eligible to apply and certify compliance for payment.* The producer on the farm, or his legal representative, must sign and file form SU–110 in the county office or with a representative of such office for the county in which the farm headquarters is located or, in the absence of a farm headquarters, for the county in which the major portion of land suitable for the production of sugar beets on the farm is located. Each producer signing the application certifies that the application covers all land farmed as a unit as defined in paragraph (j) of § 891.2.

(c) *Closing date for filing.* Form SU–110 must be filed with respect to a crop of sugar beets no later than December 31 of the second calendar year following the year designating such crop. The producers shall be notified by the county office of the place and time the forms are available for signing.

(d) *Exception to closing date requirement.* An application may be filed after the closing date if the State committee determines that the applicant was prevented from filing by such date because of illness or other reason beyond his control.

(e) *Person eligible to receive payment.* Payment shall be made to a producer of the sugar beets in accordance with the provisions of section 304(d) of the Act. In the event of death, disappearance, or incompetency of the producer, payment shall be made to the beneficiary designated in the application for payment by the producer, or if no such beneficiary is named, to the producer's legal representative or his heirs as determined by the county committee.

(f) *Assignments.* Sugar Act payments may not be assigned.

(g) *Receivers.* A Sugar Act payment may not be made to a receiver.

§ 891.5 Authority to make and computation of Sugar Act payments.

(a) The county committee is authorized to make payments on the conditions provided in this Part 891 with respect to sugar commercially recoverable from the sugar beets grown on a farm for the extraction of sugar or liquid sugar.

(b) In addition to the amount of sugar with respect to which payments are authorized under paragraph (a) of this section the county committee is also authorized to make payments, on the conditions provided in this Part 891, with respect to bona fide abandonment of planted acreage and crop deficiencies of harvested acreage as determined in accordance with the provisions of § 891.41. Payments are authorized on the following quantities of sugar:

(1) With respect to such bona fide abandonment of each planted acre of sugar beets, one-third of the normal yield of commercially recoverable sugar per acre for the farm as determined by the county committee; and

(2) With respect to such crop deficiencies of harvested acreage of sugar beets, the excess of 80 percent of the normal yield of commercially recoverable sugar for the farm, as determined by the county committee, over the actual yield.

(c) Payment is computed as to each farm, and the amount of payment is scaled down in accordance with the following table when the quantity of sugar determined as provided in paragraph (a) and (b) of this section exceeds 7,000 hundredweight:

If the hundredweight of commercially recoverable sugar determined for a farm is—	Multiply it by—	Then add—
1 to 7,000	$0.80	$0
7,001 to 14,000	.75	350
14,001 to 20,000	.70	1,050
20,001 to 30,000	.60	3,050
30,001 to 60,000	.55	4,550
60,001 to 120,000	.525	6,050
120,001 to 240,000	.50	9,050
240,001 to 600,000	.475	15,050
More than 600,000	.30	120,050

Example: If the hundredweight of commercially recoverable sugar determined for a farm is 50,000 hundredweight: 50,000×$0.55 equals $27,500 plus $4,550 totals $32,050, the amount of payment.

§ 891.6 List of prescribed forms.

Forms prescribed for the conditional payment program in the Beet Sugar Area.

FORM NUMBER AND TITLE

SU-79—Application to produce and Market Sugar Under Bond.
SU-100—Request for Sugar Beet Proportionate Share.
SU-102—Sugar Beet Farming Unit Report.
SU-103—Notice of Sugar Beet Farm Proportionate Share.
SU-103-A—Notice of History Credit for Released Share.
SU-104—Sugar Beet Record Card.
SU-104-1—Personal Sugar Beet Record Card.
SU-107—Sugar Beet Marketing Report.
SU-109-A—Sugar Beet Normal Yield Worksheet.
SU-110—Application for Payment.
SU-112—List of Sugar Beet Producers.
SU-113—Farm Operator Check and Record Sheet.
SU-114—Summary of Applications for Payments.
SU-115—Child Labor and Wage Compliance Report.
SU-191—Claim Against Producer for Unpaid Wages.
SU-195—Sugar Act Payments Deductions.

Subpart B—Determination of Compliance With Conditions of Payment

§ 891.10 Obtaining information regarding eligibility for payment.

(a) Where information is necessary to assist the county committee in determining: (1) Compliance with the conditions prescribed by the Act and regulations for any payment authorized under Title III of the Act, (2) the facts constituting the basis for any such payment, or (3) the amount thereof, or

(b) Where information is necessary to assist the State committee or the Deputy Administrator in reviewing upon appeal, or upon their own initiative, a determination by the county committee:

(c) Any such information with respect to acreage or compliance shall be obtained to the extent possible as provided in the applicable provisions of Part 718 of Chapter VII of this title, as amended.

(d) In the absence of a provision in such Part 718 of this title for obtaining any such information, any employee of the county office or employees of the State office designated respectively by the County Executive Director or by the State Executive Director to be qualified to perform such a duty may obtain such information.

§ 891.11 Conditions of payment not met where producer prevents obtaining information.

If the producer, or his representative, on any farm with respect to which application is made for any payment authorized under title III of the Act prevents the obtaining of: (a) The information necessary to determine compliance with the conditions for any such payment, or (b) the facts constituting the basis of any such payment, and (c) the facts necessary to determine the amount of such payment, the conditions prescribed by the Act and regulations for any such payment shall be deemed not to have been met until such producer or his representative permits such information to be obtained.

§ 891.12 Compliance with child labor provisions of the Act.

(a) *Applicability.* As a condition for payment under the Act, and except for a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time work was performed, no child under the age of 14 shall have been employed or permitted to work on the farm, whether for gain to such child or any person, in the production, cultivation, or harvesting of a crop of sugar beets with respect to which application for payment is made, nor shall any child 14 or 15 years old have been employed or permitted to work for a longer period than 8 hours in any one day.

(b) *Deduction for noncompliance.* Payment authorized under the Act may be made notwithstanding a failure to comply with the conditions set forth in paragraph (a) of this section, but the payments made with respect to any crop shall be subject to a deduction of $10 for each child for each day, or a portion of a day, during which such child was employed or permitted to work contrary to the provisions of this section.

(c) *Proof of age.* The operator of a farm upon which a child is found by a representative of the county or State office or county or State committee to have worked or to be working in the production, cultivation, or harvesting of a crop of sugar beets shall be required upon request of the representative to furnish proof of age of the child unless such child is a member of the immediate family of a person owning at least 40 percent of the crop of sugar beets at the time such work was performed. Proof of age may be established by (1) an age certificate issued pursuant to any child labor program carried out under the supervision of State or Federal personnel, or other authorized personnel such as a school superintendent or principal, (2) a birth certificate or transcript thereof, (3) a baptismal certificate showing the date of birth, (4) a passport, (5) an insurance policy, or (6) a Bible record.

(d) *Proving child member of producer's immediate family.* If it is alleged that the child is a member of the immediate family of a person who owns such 40 percent of a crop, such person or the operator of the farm must establish such relationship to the satisfaction of the representative of the county or State office or county or State committee. "Member of the immediate family" is deemed to include children living in the household of a person who is responsible for and provides the support of such children, either as parent or in place of the parent.

(e) *Checking compliance with child labor provisions.* In accordance with instructions issued by DASCO, the county committee shall determine by random selection the farms on which child labor compliance checks shall be made. The farm operator shall be notified immediately of any violation of these provisions.

§ 891.13 Compliance with the acreage certification and land use provisions.

If proportionate shares are in effect for a crop, and the operator of a farm located in a county designated in Part 718 of this title as a county in which farm operator's certification of the acreage and land use may be accepted in lieu of farm inspection and measurements either, (a) fails to file a report in compliance with § 718.8(b)(6) of this title, or (b) files a timely report showing that the acreage of beets is within the share for the farm and the county or State committee later determines that such acreage is in excess of the share and was knowingly reported incorrectly by the operator, no payment shall be made with respect to such farm.

§ 891.14 Compliance with other conditions of payment.

No person shall be eligible for payments under the Act unless he has met all requirements of the Act and the regulations issued pursuant thereto with respect to wage rates, farm proportionate shares (if in effect) and, in case of a processor-producer, prices paid for sugar beets.

§ 891.15 Credit for accredited sugar beet acreage record.

(a) *Crediting production record of farms which are subdivided.* For the purpose of compiling sugar beet production records for use in establishing proportionate shares, when required, and for use in determining normal yields for abandonment and crop deficiency payments, as provided in § 891.41, the production record for a subdivision of any farm which is divided shall be credited with its actual planted acreage, approved prevented acreage determined under § 891.31 and approved acreage eligible for release determined under § 891.35 if available from records in the county office. However, if such records are not available in such office, the production records of the subdivisions shall be credited with a pro rata share, respectively, of the planted acreage, approved prevented acreage, and approved released acreage of the farm on the basis of the cropland suitable for the production of sugar beets in each subdivision.

(b) *Corporations.* (1) In case of the merger or consolidation of two or more corporations in a personal history area, the accredited acreage record of any of the constituent corporations shall be credited to the surviving or consolidated corporation if the surviving or consolidated corporation operates land for the production of sugar beets.

(2) The personal sugar beet production records of individuals or members of a partnership forming a corporation may be credited to such corporation at the time it is formed. Furthermore, the corporation must conform to all of the following requirements: (i) The corporation must be formed by the members of an "immediate family" as defined in subparagraph (g) of this section; (ii) all shares of stock in the corporation must be held by members of the immediate family; and (iii) one or more of the shareholders must have a personal accredited acreage record in the proportionate share base period at the time the corporation is formed. Thereafter, such production records will be credited to such corporation, except that if, at the time a proportionate share is established for the farm operated by the corporation, less than a majority of the outstanding shares of stock are owned by members of such immediate family, such production records will cease to be credited to such corporation.

(3) Upon the dissolution of a corporation, no personal history credits of the corporation shall be transferred to individuals, except, that in the case of the dissolution of a corporation of which a majority of the stock is owned by members of the immediate family that included members owning stock in the corporation when it was formed, the history credit of such corporation may be transferred to such individual members of the immediate family owning stock at the time of dissolution in the same ratio that the number of shares of stock owned by each member of the immediate family in such corporation bears to the total shares of stock issued by such corporation.

(c) *Initiation of joint operation.* Where a person having a personal accredited acreage record in a personal history area and another person (or persons) initiate a joint operation of a farm for the production of sugar beets by a partnership or other form of joint enterprise, the farm base shall be established on the basis of acreage not exceeding the landowner's share of the sugar beet crops included in the farm's accredited acreage records. A farm base may be established on a basis of acreage not limited to the landowner's share of such sugar beet crops where the county committee determines, and a representative of the State committee concurs, that: (1) Such joint enterprise is conducted exclusively by the members of an immediate family, or (2) under such joint enterprise the person (or persons) having a personal production record during the base period qualifies either as the sole operator or as a joint operator of the farm, regardless of whether any other joint operator has a personal production record, and (3) the initiation of the joint operation was not made in an attempt to transfer a share or personal production history.

(d) *Dissolving of partnership.* If, in a personal history area, a partnership is dissolved, the accredited acreage record of the partnership shall be credited, pro rata, to the individuals who were members of the partnership on the basis of their respective contributions of sugar beet production history to such partnership at the time it was formed: *Provided, however,* That if such dissolved partnership was in existence for at least 3 years, the accredited acreage record of the partnership may be credited to each of the former partners in accordance with a written agreement signed by all of the former partners or their legal representatives.

(e) *Death or incapacity.* The personal sugar beet production history of a farm operator who dies, or becomes incapacitated, shall accrue to the legal representative of his estate or to a member of his immediate family if such legal representative or family member continues within 3 years of such death or incapacity the customary sugar beet operations of the deceased or incapacitated operator. If in any year during this period sugar beets were not planted by such legal representative or member of the family, production history shall be credited to such year equal to the acreage last planted by the deceased or incapacitated farm operator.

(f) *Closed factory history protection.* If any producer has lost a market for sugar beets as a result of: (1) The closing of a sugar beet factory in any year after 1970; or (2) the complete discontinuance of contracting by a processor after 1970 in a State; or (3) the discontinuance of contracting by a processor after 1970 in a substantial portion of a State in which the processor contracted a total of at least 2,000 acres of the 1970 crop of sugar beets, the county committee shall credit to the farm (or to the operator in a personal history area) an acreage history for each of the next 3 years equal to the average acreage planted on the farm (or by the operator) in the last 3 years of such factory's operation or processor's contracting. Any unused proportionate share acreage resulting from such history credit shall not be transferred to other farms (or operators).

(g) *Immediate family.* For the purpose of this section the term "immediate family" shall include only persons who have one of the following relationships to an owner-operator or the persons credited with the personal sugar beet production records: spouse, father, mother, brother, sister, children, grandchildren, and spouses of a brother, sister, or children. This definition applies regardless of whether such persons reside in the same household.

§ 891.16 Determination of eligibility and basis for payment, review and appeals.

(a) The finality provisions of section 306 of the Act apply to determinations made in conformity with the regulations in this section. Compliance with the conditions prescribed by the Act and regulations for any payment authorized under title III of the Act, the facts constituting the basis for any such payment, and the amount thereof, shall be determined by the county committee, subject to redetermination initiated by the county committee and to review initiated by the State committee and to approval or redetermination by the State committee. Any determination by the State committee shall be subject to redetermination initiated by the State committee and to review initiated by the Deputy Administrator and to approval or redetermination by the Deputy Administrator.

(b) Determinations and redeterminations by the county committee, the State committee or the Deputy Administrator shall be made in accordance with the Act and regulations and on the facts in the individual case. The producers on the farm with respect to which such a determination or redetermination is made shall be promptly notified in writing of the substance and meaning of the determination or redetermination, the amounts of any payments and any reduction in payments which are determined; and that the producer may obtain reconsideration or review of the determination or redetermination and an informal hearing in connection therewith, by filing a written request within 15 days from the

date of mailing of such written notification. The written notification also shall state where the request for reconsideration or review should be filed and where further information in regard to appeal procedure and the hearing may be obtained. The provisions apprising producers of their rights to request reconsideration or appeal from determinations affecting their eligibility for or the amounts of payments under the Act, and the procedure to follow in such instances including time limitations for filing requests for reconsideration and appeals are contained in Chapter VII, Part 780 of this title. The procedures applicable to claims for unpaid wages are set out in Part 862 of this chapter.

§ 891.17 Notification of shares when shares are in effect.

Each person filing a request for a share shall be notified in writing on behalf of the State committee of the share established in response to his request (even if "none"), and of any subsequent adjustment or change made in such share, and of his right to appeal under § 891.16. The farm operator of each farm for which a share is redetermined shall be notified in writing on behalf of the State committee of the redetermined share and of the right to appeal therefrom as provided in Part 780 of this title. Where a tentative share is computed pursuant to a preliminary request for a share filed as provided in Part 850 of this chapter, the person filing such request shall be furnished a notice informing him that the acreage stated thereon is a tentative share, does not constitute the establishment of a farm share for the purpose of payment under the Act, and that a farm share for such purpose may be established only upon the filing of a fully completed request for a share within the time and in the manner provided in Part 850 of this chapter.

§ 891.18 Harvesting within the farm's share when shares are in effect.

The acreage of sugar beets grown on the farm, marketed (or processed), and used for the production of sugar or liquid sugar shall not exceed the share determined for the farm in accordance with applicable regulations in Part 850 of this chapter, except as provided in § 891.20. However, sugar beets grown on acreage in excess of the share may be marketed (or processed) for the production of sugar or liquid sugar for livestock feed or for the production of livestock feed if the operator of the farm furnishes weight tickets to the county committee evidencing that such sugar beets were sold by him, or were processed by or for him, for the production of sugar or liquid sugar for livestock feed, or for the production of livestock feed, and if so sold, were purchased by the processor for such purpose. Notwithstanding the foregoing provisions of this paragraph, the farm shall be deemed to have met the requirements for payment with respect to marketings (or processings) within the share where sugar beets were marketed (or processed) for sugar from an acreage on the farm exceeding the share: *Provided,* That (a) such excess acreage is not more than the larger of four-tenths acre or 2 percent of the share but not in excess of five acres, and (b) the county committee finds that the farm operator did not intentionally market (or process) sugar beets from an acreage in excess of the share for the farm and the State committee concurs in such findings, and (c) within 1 year from the date of the processing of such excess sugar beets, the farm operator has arranged for the raw value equivalent of sugar produced from sugar beets in the Beet Sugar Area which had not been marketed to fill a quota for such area as provided in Part 816 of this chapter to be made subject to a bond given pursuant to the provisions of such Part 816 of this chapter, which provides as a condition of such bond that the sugar shall be used for livestock feed or for the production of livestock feed. The Sugar Act payment in such case shall be limited to the amount of sugar commercially recoverable from the sugar beets marketed (or processed) from the acreage within such share.

§ 891.19 Notification of excess sugar beet acreage when shares are in effect.

If the county committee determines for any crop that the acreage of sugar beets on any farm is in excess of the acreage established as the share for such farm, written notice of such excess acreage and of the eligibility requirements for payment shall be mailed to the person who is listed on the county office records as the operator of the farm.

§ 891.20 Erroneous notice of share or of excess sugar beet acreage when shares are in effect.

If through error, an operator is officially notified of a share for his farm greater than the share properly established, or is furnished an incorrect notice of excess sugar beet acreage, or if the determined acreage of sugar beets is in excess of the share for the farm and notice thereof is not mailed to the operator, and it is found by the county committee that such operator, acting solely on the information contained in the erroneous notice or without a notice of excess sugar beet acreage being mailed to him, markets sugar beets from an acreage in excess of the share properly established, the farm will be deemed to be in compliance with the correct share unless sugar beets are marketed for sugar from an acreage in excess of the share stated in the erroneous notice, or unless it is determined by the county committee that the error in the share or notice was so gross, or that, the excess acreage was so gross as to place the operator on notice regarding the error in the share or of the existence of the excess acreage. However, the Sugar Act payment with respect to the farm shall be limited to the amount of sugar determined by the county committee to be commercially recoverable from the sugar beets marketed (or processed) from the acreage within the properly established share.

§ 891.21 Eminent domain.

The share established for a crop designated by year for a farm which was removed from sugar beet production in its entirety or in part by acquisition within the 3 years immediately preceding the year designating such crop by an agency or entity entitled to exercise the right of eminent domain, shall, upon application by the owner of the land so removed to the appropriate State office, be added to the share established for such crop for any land owned by the owner in the same State to the extent requested in the application. The acreage so added shall not exceed the difference between the share established for the farm from which production was removed and the share established for the part of the farm not lost by the acquisition. Where application is not made as provided in this section for the entire share or part thereof established for the farm, the share or part thereof not applied for shall be reserved by the State committee for 3 years after the date of acquisition or until application is made by the owner of the land removed, whichever is earlier; *Provided,* That such reserved share or part thereof shall be subject to any adjustments required to be made in establishing shares for old-producer farms under the regulations applicable during the period the share is reserved. The acreage of such reserved shares not applied for may not be reallocated to other old-producer farms.

§ 891.22 Harvest of illegal drug-producing plants.

In accordance with Part 796 of Chapter VII, of this title, after August 10, 1971, a Sugar Act payment shall not be made to a farm if any producer with respect to such farm harvests or knowingly permits to be harvested for illegal use, Marihuana or other such prohibited drug-producing plants on any lands included in the farm. Such prohibited plants are specified in § 796.2 of Chapter VII of this title.

Subpart C—Prevented Acreage Credit

§ 891.30 Prevented acreage credit.

(a) The county committee shall determine prevented acreage credits in accordance with the provisions of this section as part of the general determination of performance. The limitations specified in paragraph (b) of this section are applicable in determining prevented acreage credit for farms in all areas including personal history areas.

(b) The prevented acreage of a crop to be credited to a farm shall not exceed the difference between (1) the sum of the acreage harvested of such crop on the farm plus any bona fide abandoned acreage of such crop on the farm, and (2) the largest sum of the acreage harvested, bona fide abandoned acreage, prevented acreage and approved released acreage credited pursuant to § 891.35 through 891.38 for any of the three crops immediately preceding the crop for which prevented acreage is to be credited to the farm.

§ 891.31 Determining and recording prevented acreage credit.

(a) Subject to the provisions of this section, the county committee shall determine the extent of prevented acreage of a crop to be credited to each farm and in a personal history area to be included in the production records of farm operators, upon the basis of (1) the prevented acreage reported to the committee with respect to such farm by the operator or owner thereof, and (2) information brought to the attention of the county committee.

(b) For all States except California and Arizona information of prevented acreage shall be reported or brought to the attention of the county committee not later than July 15 of the year used to designate the crop involved in the prevented acreage. In the California counties of Imperial, San Diego, Riverside, Orange, San Bernardino, and that part of Los Angeles County lying south of the San Gabriel Mountains, and in the Arizona counties of Maricopa, Pima, Pinal, and Yuma, such information shall be reported or brought to the attention of the committee not later than January 15 of the year following the year used to designate the crop involved in prevented acreage. In the California counties not named above, such information shall be reported or brought to the attention of the committee not later than November 15 of the year used to designate the crop involved in prevented acreage. In the Arizona counties not named above such information shall be reported or brought to the attention of the committee not later than July 15 of the year used to designate the crop involved in the prevented acreage. Notwithstanding the foregoing provisions of this paragraph information of prevented acreage may be reported to a county committee after the date specified in this paragraph if the county committee determines that the person reporting such information failed to timely report because of illness or other reason beyond his control.

(c) The prevented acreage credit for each farm for any given crop as determined by the county committee, together with a brief reference to the basis relied upon by the committee in determining the extent of such credit shall be recorded on the appropriate county office records.

§ 891.32 Notification.

In each case of denial or reduction of prevented acreage credit the county committee shall notify the person reporting the prevented acreage regarding the credit, if any, approved in his case, and inform him of the basis for denial or reduction and of his right to appeal under Part 780 of Chapter VII of this title.

Subpart D—Released Share Acreage Credit

§ 891.35 Limitation and retention of accredited acreage credit.

(a) The number of proportionate share acres released and approved by the county committee for credit to a farm or farm operator shall be the share or portion thereof eligible for release.

(b) Accredited acreage credit shall be given to a farm (or farm operator in a personal history area) releasing the acreage, equal to the share or portion thereof eligible for release for a period not to exceed 3 consecutive years including the crop year in which released: *Provided*, That the operator of the farm (or person in a personal history area who has a personal accredited acreage record) releases such share or portion thereof at the county office of the county in which the headquarters of the farm is located. Such a release shall be executed for each individual crop year when proportionate shares are in effect but not to exceed 3 consecutive crop years.

(c) The release must be filed prior to a date determined and published by the State committee as the date beyond which sugar beets are not normally seeded in the area, except that if the county committee finds that the eligible producer was prevented from filing a release by such date for reasons beyond his control, his claim as filed subsequently may be considered.

§ 891.36 Notice and right to appeal.

(a) In each case in which the county committee determines that the facts do not justify approval of the release of a share or part thereof the county committee shall notify the person filing the release of such determination giving the basis for such decision.

(b) Such notification shall inform the producer of his right to appeal, under Part 780 of Chapter VII of this title.

§ 891.37 Reallotment of released acreage.

The acreage resulting from the release of all or a portion of the shares pursuant to §§ 891.35 and 891.36 may be reallotted to other farms in the area on which additional acreage may be utilized or to farms in other allotment areas in the State. Reallotment shall be subject to the conditions in § 891.38 and shall be made in the same manner as provided in Part 850 of this chapter for the distribution of unused proportionate share acreage. Only those sections of Part 850 of this chapter which are effective for the crop year in which the released acreage is reallotted shall apply.

§ 891.38 No accredited acreage credit for reallotted released acreage.

A farm on which the reallotted released acreage (as approved pursuant to §§ 891.35 and 891.36) is used, or the operator of such farm in a personal history area, will not receive accredited acreage credit for such utilized acreage. Likewise, recognition will not be given to such reallotted acreage in establishing State allocations or area allotments.

Subpart E—Determination of Normal Yields and Eligibility for Abandonment and Crop Deficiency Payments

§ 891.40 Farm normal yield.

The normal yield per acre of each sugar beet farm in the Beet Sugar Area shall be established for the 1973 and subsequent crops as follows:

(a) For a farm on which there were planted acres in more than two of the next preceding 5 crop years, the normal yield shall be the simple average of all the annual yields for the farm for such crop years.

(b) For a farm on which there were planted acres in only one or two of the next preceding 5 crop years, the normal yield shall be the product derived by multiplying the county normal yield by the percentage obtained by dividing the simple average of the annual yields for the farm for such year or years by the simple average of the county yields for such year or years, except that the normal yield for such farm shall be not less than 80 percent nor more than 120 percent of the county normal yield.

(c) For a farm on which there were planted acres in none of the next preceding 5 crop years, the normal yield shall be 90 percent of the county normal yield.

§ 891.41 Eligibility for abandonment and deficiency payments.

(a) For each crop, each farm having abandonment of planted sugar beet acreage, or having a crop deficiency of harvested sugar beet acreage below 80 percent of the normal yield for such acreage as determined in accordance with § 891.40, or having both such abandonment and deficiency, shall be approved by the county committee for payments relating thereto if the following requirements with respect to the farm are met:

(1) The sugar beets were planted on the farm on land suitable for the production of the crop, in a timely and workmanlike manner and under conditions conducive to normal production;

(2) The sugar beets were cared for up to the time of abandonment or harvest, as the case may be, in a manner which could have been expected, under average conditions, to produce a normal crop;

(3) The abandoned acreage could not have been reseeded to sugar beets in the same crop cycle under conditions offering at least a fair opportunity for production;

(4) The abandonment of planted sugar beet acreage on the farm, or the crop deficiency below 80 percent of the normal yield of the harvested sugar beet acreage on the farm, resulted directly from drought, flood, storm, freeze, disease, or insects;

(5) With respect to acreage abandonment, the county office was notified of the intention to abandon the acreage before the sugar beets were destroyed or the acreage was used for other purposes: *Provided*, That the county committee may waive the requirements of prior notification if such committee (i) Has knowledge that sugar beets were planted on the abandoned acreage and the extent of such plantings, and (ii) has knowledge of widespread crop damage in the locality where the farm is located, and (iii) is satisfied that the abandonment on the farm in question resulted directly from drought, flood, storm, freeze, disease, or insects;

(6) There was compliance with all the other conditions for payment prescribed by the Act.

§ 891.42 Approval and certification.

Approval by a member of the county committee on behalf of such committee of an application for an abandonment payment or a crop deficiency payment, or both, shall constitute a determination that the farm with respect to which such application is made is eligible for an abandonment or a deficiency payment, or both, as the case may be.

Subpart F—Determination of Sugar Commercially Recoverable

§ 891.45 Determination of sugar commercially recoverable from sugarbeets.

(a) *Definitions.* For the purpose of this section, the terms:

(1) "Settlement area" means an area in which the marketing agreements between producers and the processor for each crop of sugar beets contain a common pricing formula.

(2) "Base period" means the first five of the last six crops immediately preceding the crop year for which rates of recoverability are to be established.

(3) "Extraction rate" for a crop means the percentage obtained by dividing the hundredweight of refined sugar recovered from the total quantity of sugar beets marketed for the extraction of sugar in the United States by the hundredweight of total computed sugar content of such beets. The sugar content of such beets shall be computed by multiplying the quantity of beets marketed to each sugar beet processing company by the weighted average sugar content of cossettes sliced in the factories operated by the company and adding the products for all such companies to obtain the total computed sugar content.

(b) *Recoverable sugar.* The amount of sugar, raw value, commercially recoverable from sugar beets shall be deemed to be as follows:

(1) In the case of sugar beets marketed in a settlement area under any type of agreement other than an "individual test" contract or a "combined individual-cossette test" contract, the amount of sugar (expressed in hundredweight) established by multiplying the net tonnage of the sugar beets, at the time of delivery to a processor, by a rate expressed in hundredweight of sugar per ton of beets (rounded to three decimals). Such rate shall be computed by (i) multiplying 20 hundredweight (1 ton) by the weighted average percentage of sugar content of all the sugar beets of the next preceding seven crops marketed on such basis in such settlement area, according to cossette tests made by the processor, and (ii) multiplying the result obtained under subdivision (i) of this subparagraph (1) by the simple average of the extraction rates for the sugar beet crops in the base period, as adjusted to raw sugar value by multiplying by 1.07.

(2) In the case of sugar beets marketed under an "individual test" contract, the amount of sugar (expressed in hundredweight) established by multiplying the net tonnage of the sugar beets, at the time of delivery to a processor, by a rate expressed in hundredweight of sugar per ton of beets (rounded to three decimals). Such rates shall be computed by (i) multiplying 20 hundredweight (1 ton) by the percentage of sugar content on which settlement under the marketing contract is made, (ii) multiplying the result obtained under subdivision (i) of this subparagraph by the simple average of the extraction rates for the sugar beet crops in the base period, as adjusted to raw sugar value by multiplying by 1.07, and (iii) multiplying the result obtained under subdivision (ii) of this subparagraph by the ratio which the simple average for the crops in the base period of the annual weighted average percentages of sugar content of all the beets which were marketed under individual test contracts, according to cossette tests and tonnages processed, bears to the simple average of the annual weighted average percentages of sugar content of such beets according to individual tests and marketed tonnages.

(3) In the case of sugar beets marketed under a "combined individual-cossette test" contract, the amount of sugar (expressed in hundredweight) established by multiplying the net tonnage of the sugar beets, at the time of delivery to a processor, by a rate expressed in hundredweight of sugar per ton of beets (rounded to three decimals). Such rate shall be computed by:

(i) Multiplying the weighted average percentage of sugar content of the beets delivered by a producer by a factor computed by dividing the factory cossette test average by the weighted average sugar content of beets comprising at least 97 percent of the current crop delivered to the factory as determined by individual tests. The factory cossette test average shall be the weighted average percentage of sugar content of all the sugar beets of the next preceding seven crops marketed in such settlement area and determined by factory cossette tests. The weighted average sugar content of beets comprising at least 97 percent of the current crop delivered to the factory shall be computed from individual tests of the beets so delivered at such time as the State committee determines that at least 97 percent of the sugar beets of a crop have been delivered and tested for sugar content in the settlement district.

(ii) Multiplying 20 hundredweight (1 ton) by the adjusted average percentage obtained in subdivision (i) of this subparagraph, and

(iii) Multiplying the result obtained in subdivision (ii) of this subparagraph by the simple average of the extraction rate for the sugar beet crops in the base period, as adjusted to raw value by multiplying by 1.07.

(c) *Delegation and effectiveness.* The applicable rate of sugar commercially recoverable, as determined herein, shall be established by the Deputy Administrator, and shall become effective for each crop when the specific rate for individual settlement areas, as provided for in paragraph (b)(1) of this section, and directions for computing the rates provided for in paragraphs (b) (2) and (3) of this section are published in the FEDERAL REGISTER.

STATEMENT OF BASES AND CONSIDERATIONS

To qualify for Sugar Act payments, sugar beet producers must comply with various general provisions and requirements of the Act, as implemented in determinations issued by the Secretary. In addition, they must file applications for payments, use approved forms, adhere to certain instructions, and furnish information regarding eligibility for payment and the basis for payment and in connection with appeals for review thereof.

This notice of proposed rule making represents an issuance of these general provisions applicable to the Beet Sugar Area. Prior to the proposed revision of Part 891, the general conditional payments regulations applicable to the Beet Sugar Area were set forth in six separate parts. The consolidation of these separate parts provides a convenience for the user by placing all conditional payments provisions applicable to the Beet Sugar Area into one part.

This proposed revision incorporated these parts into one, without substantive change, except as follows:

(1) Section 891.5, *Authority to make, and computation of Sugar Act payments,* has been expanded to include the provisions of section 303 of the Act relating to the computation of abandonment and crop deficiency payments. This provision, heretofore, had not been included in applicable regulations.

(2) Section 891.15, *Credit for accredited sugar beet record,* paragraph (e), has been revised to conform with section 302(b)(2) of the Act which was amended in 1971 to provide for personal history of a farm operator who dies or becomes incapacitated. § 891.15 was further changed to add paragraph (f) to conform with section 302(b)(10) of the Act which was added by the 1971 amendments to the Act to provide for history credit for farms (or producers in a personal history area) who lost a market for sugarbeets as a result of the closing of a sugarbeet factory.

(3) Section 891.22 has been added to provide that Sugar Act payments shall not be made to producers if illegal drug-producing plants are harvested. The general applicability of this provision was previously set forth in Part 796 of chapter VII, of this title.

(4) Section 891.40, *Farm normal yield,* has been revised to provide that for a farm on which were planted acres in more than two of the next preceding 5 crop-years, the normal yield shall be the simple average of all the annual yields for the farm for such crop years. This proposed revision removes the provision for adjusting farm normal yields of farms, which normal yields are less than 90 percent of the county normal yield,

to the lesser of 90 percent of the county average yield or the highest annual yield for the farm in the base period. The removal of this provision establishes the determination of farm normal yields for all sugar producing areas on a like basis.

Provisions of the Act relating to proportionate shares not included herein will be incorporated in the regulations pertaining to proportionate shares when it is determined by the Secretary that such shares are required.

Signed at Washington, D.C. on November 30, 1972.

E. J. PERSON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-21062 Filed 12-6-72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 12422]

DOWTY ROTOL PROPELLERS

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to certain Dowty Rotol type (c) R186/4-30-4/16 propellers. There have been reports of cracks on the propeller hub front wall on Dowty Rotol type (c) R186/4-30-4/16 propellers that could result in loss of the propeller from the aircraft. Since this condition is likely to exist or develop in other propellers of the same type design, the proposed airworthiness directive would require modification to strengthen the propeller hub and hub driving center, on Dowty Rotol type (c) R186/4-30-4/16 propellers, that do not incorporate Modification No. (c) VP.2388.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before January 8, 1973, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

DOWTY ROTOL. Applies to Dowty Rotol Propellers, type (c) R186/4-30-4/16 which have not been modified in accordance with Modification No. (c) VP.2388 (Rev. 3). These propellers are installed on, but not necessarily limited to, Armstrong Whitworth Argosy Type A.W. 650 Series 101 airplanes.

Compliance is required as indicated.

To prevent cracking of the propeller hub front wall, accomplish the following:

Within the next 200 hours' time in service after the effective date of this AD, or prior to the accumulation of 8,000 hours total time in service, whichever occurs later, strengthen the propeller hub and hub driving center by incorporating Modification No. (c) VP.2388, Revision 3 in accordance with Dowty Rotol Service Bulletin No. 61-604 (Rev. 2) dated November 24, 1971, or an FAA-approved equivalent.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 30, 1972.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[FR Doc.72-20961 Filed 12-6-72;8:50 am]

[14 CFR Part 73]

[Airspace Docket No. 72-SO-113]

RESTRICTED AREAS

Proposed Designation

The Federal Aviation Administration (FAA) is considering a proposal that would designate temporary restricted areas for use in a military training exercise in the Camp Lejeune/New Bern/Fayetteville/Wilmington area, and in the coastal region adjacent to Jacksonville and Beaufort-Morehead City, N.C.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA is considering the designation of the following temporary restricted areas:

Name: Exotic Dancer VI Joint Military Exercise.

Location: Camp LeJeune/Fayetteville/New Bern/Wilmington and the coastal region adjacent to Jacksonville/Beaufort-Morehead City, N.C.

Boundaries:

Area "A"—Beginning at lat. 34°57'30" N., long. 77°02'00" W.; thence SW along the boundary of R-5306A and R-5306B to lat. 34°42'00" N., long. 77°17'30" W.; thence counterclockwise along connecting arcs of 8.5-mile radius circles centered on the New River, MCAS (lat. 34°42'25" N., long. 77°26'35" W.) and the Albert J. Ellis Airport (lat. 34°49'49" N., long. 77°36'42" W.) to lat. 34°55'30" N., long. 77°42'00" W.; to lat. 34°56'00" N., long. 77°48'30" W.; to lat. 35°12'15" N., long. 77°35'00" W.; thence counterclockwise along an arc of an 8.5-mile radius circle centered on Stallings Field (lat. 35°19'40" N., long. 77°36'55" W.) to lat. 35°15'00" N., long. 77°30'00" W.; thence to point of beginning.

Area "B"—Beginning at lat. 34°42'00" N., long. 77°17'30" W.; thence along the outer boundaries of R-5306B and R-5306C to lat. 34°35'15" N., long. 77°24'00" W.; to lat. 34°27'00" N., long. 77°30'30" W.; to lat. 34°36'30' N., long. 77°49'30" W.; to lat. 34°51'30" N., long. 77°52'00" W.; to lat. 34°56'00" N., long. 77°48'30" W.; to lat. 34°55'30" N., long. 77°42'00" W.; thence clockwise along connecting arcs of 8.5-mile radius circles centered on the Albert J. Ellis Airport (lat. 34°49'49" N., long. 77°36'42" W.) and the New River MCAS (lat. 34°42'25" N., long. 77°26'35" W.) to point of beginning.

Area "C"—Beginning at lat. 34°35'15" N., long. 77°24'00" W.; thence along the S boundary of R-5306B to lat. 34°30'15" N., long. 77°16'00" W.; thence SW along the boundary of W-122 to lat. 34°18'00" N., long. 77°37'30" W.; to point of beginning.

Area "D"—Beginning at lat. 35°12'00" N., long. 77°58'30" W.; to lat. 34°57'30" N., long. 78°02'30" W.; to lat. 35°02'00" N., long. 78°40'00" W.; to lat. 35°11'00" N., long. 78°40'00" W.; to point of beginning.

Area "E"—Beginning at lat. 34°49'20" N., long. 78°07'20" W.; to lat. 34°24'00" N., long. 78°24'00" W.; to lat. 34°24'00" N., long. 78°42'30" W.; to lat. 34°50'30" N., long. 78°46'00" W.; to lat. 34°53'45" N., long. 78°42'00" W;. to point of beginning.

Area "F"—Beginning at lat. 34°24'00" N., long. 78°24'00" W.; to lat. 34°09'30" N., long. 78°34'30" W.; to lat. 34°10'00" N., long. 78°41'00" W.; to lat. 34°24'00" N., long. 78°42'30" W.; to point of beginning.

Area "G"—Beginning at lat. 34°43'15" N., long. 76°47'30" W.; to lat. 34°38'15" N., long. 76°41'30" W.; thence W. along the N. boundary of W-122 to lat. 34°37'30" N., long. 76°46'00" W.; thence N. and E. along the boundary of R-5306A to point of beginning.

Area "H"—Beginning at lat. 35°12'00" N., long. 77°58'30" W.; to lat. 34°57'30" N., long. 78°02'30" W.; to lat. 34°24'00" N., long. 78°24'00" W.; to lat. 34°09'30" N., long. 78°34'30" W.; to lat. 34°10'00" N., long. 78°41'00" W.; to lat. 34°50'30" N., long. 78°46'00" W.; thence clockwise along a 10-nautical mile radius circle centered on the Fayetteville Municipal Airport (lat. 34°50'35" N., long. 78°52'50" W.) to lat. 35°00'00" N., long. 79°04'00" W.; to lat. 35°02'30" N., long. 79°05'30" W.; thence N. along the E. boundary of R-5311A to lat. 35°10'30" N., long. 79°01'00" W.; to lat. 35°11'00" N., long. 78°40'00" W.; to point of beginning.

Area "I"—Beginning at lat. 35°12'15" N., long. 77°35'00" W.; to lat. 34°51'30" N., long. 77°52'00" W.; to lat. 34°22'00" N., long. 77°47'30" W.; thence counterclockwise along the Wilmington, N.C., 8.5-mile transition area to lat. 34°20'00" N., long. 78°01'30" W.; to lat.

34°09'00" N., long. 78°20'00" W.; to lat. 34°-09'30" N., long. 78°34'30" W.; to lat. 34°24'-00" N., long. 78°24'00" W.; to lat. 34°57'30" N., long. 78°02'30" W.; to lat. 35°12'00" N., long. 77°58'30" W.; to point of beginning.

Area "J"—Beginning at lat. 35°23'00" N., long. 76°34'30" W.; thence southerly along the outer boundaries of R-5306A, R-5306B, R-5306C, R-5306B and W-122 to lat. 34°05'-00" N., long. 77°43'00" W.; to lat. 34°12'30" N., long. 77°46'30" W.; thence counterclockwise along the Wilmington, N.C., 8.5-mile transition area to lat. 34°22'00" N., long. 77°47'30" W.; to lat. 34°51'30" N., long. 77°52'00" W.; to lat. 35°12'15" N., long. 77°35'00" W.; thence counterclockwise along the Kinston, N.C., 8.5-mile transition area to lat. 35°20'00" N., long. 77°27'30" W.; to lat. 35°32'30" N., long. 77°09'00" W.; to point of beginning.

Designated altitudes.

Areas A, B, C, D, E and F—Surface to 10,000 feet MSL.

Area G—1,000 to 18,000 feet MSL.

Areas H, I and J—10,000 to 18,000 feet MSL.

Time of designation. Continuous, March 28 to April 8, 1973, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center, Leesburg, Va.

Using agency. U.S. Atlantic Command, Norfolk, Va.

The proposed restricted areas would be used for a Joint Military Training Exercise involving a coordinated amphibious/airborne assault operation employing numerous U.S. Army, Navy, Marine Corps, and Air Force surface and air units. Tactical air maneuvers will be contained in the proposed special use airspace under both VFR and IFR conditions through direct control by the appropriate Military Air Traffic Regulations Center. Nonparticipating air traffic generated by civil airports within the proposed restricted areas will be handled on a coordinated basis using preferential routings, altitudes and coordinated times to effect safe ingress and egress of the proposed areas.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

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

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

[FR Doc.72-20962 Filed 12-6-72;8:50 am]

Notices

DEPARTMENT OF DEFENSE

Department of the Army

DWORSHAK DAM AND RESERVOIR, IDAHO

Joint Order Interchanging Administrative Jurisdiction

By virtue of the authority vested in the Secretary of the Army and the Secretary of Agriculture by the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505a, 505b), it is ordered as follows:

(1) The lands under the jurisdiction of the Department of the Army described in Exhibit A, as set forth below, which lands are within the Clearwater National Forest, Idaho, are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture, subject to outstanding rights or interests of record and to such continued use by the Corps of Engineers as is necessary for the construction, operation, and maintenance of the Dworshak Dam and Reservoir Project for its intended purposes other than recreation as presently authorized, or as may be authorized in the future.

(2) The Forest Service acquired lands described in Exhibit B, which are administered by the Forest Supervisors, Clearwater and St. Joe National Forests are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Army, subject to interests outstanding in third parties and such rights of access as are necessary for Forest Service purposes.

Pursuant to section 2 of the aforesaid Act of July 26, 1956, the Forest Service acquired lands transferred to the Secretary of the Army by this order are hereafter subject only to laws applicable to Department of the Army lands comprising the Dworshak Reservoir Project. The Department of the Army lands transferred to the Secretary of Agriculture by this order are hereafter subject to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended.

Effective date. This order will be effective as of date of publication in the FEDERAL REGISTER (11–7–72).

ROBERT F. FROEHLKE,
Secretary of the Army.

SEPTEMBER 27, 1972.

EARL L. BUTZ,
Secretary of Agriculture.

OCTOBER 16, 1972.

EXHIBIT A

Land transferred from the Secretary of the Army to the Secretary of Agriculture.

BOISE MERIDIAN

T. 41 N., R. 6 E.,
Milk Creek Homestead, H.E.S. No. 811, located in sections 28 and 29, as per the official plat of survey thereof, on file with the Bureau of Land Management.
All lands transferred herein consist of 137.04 acres, more or less.

EXHIBIT B

Land transferred from the Secretary of Agriculture to the Secretary of the Army.

BOISE MERIDIAN

T. 38 N., R. 1 E.,
Sec. 35, N½SE¼.
T. 38 N., R. 2 E.,
Sec. 17, NE¼NW¼NE¼, S½NW¼NE¼, and SE¼NE¼NW¼;
Sec. 25, lots 6, 7, and 8, NE¼SW¼, N½SE¼SW¼, N½NE¼SE¼, and NW¼SE¼.
T. 38 N., R. 3 E.,
Sec. 13, NE¼SE¼ and NE¼SE¼SE¼;
Sec. 14, NE¼NW¼NW¼ and S½NW¼NW¼;
Sec. 23, NE¼NW¼;
Sec. 30, lot 9, N½NE¼SW¼, and SW¼NE¼SW¼.
T. 38 N., R. 4 E.,
Sec. 6, lot 5;
Sec. 18, E¾ of lot 3, lot 4, and SE¼SW¼;
Sec. 19, N½NE¼NW¼ and N½SE¼SE¼.
T. 39 N., R. 2 E.,
Sec. 28, SW¼SW¼ and S½SE¼SW¼;
Sec. 33, NW¼NW¼, N½SW¼NW¼, and SW¼SW¼NW¼.
T. 39 N., R. 4 E.,
Sec. 4, lots 4, 5, and 8;
Sec. 5, NE¼ of lot 1, SE¼NE¼SE¼, NE¼SE¼SE¼, and S½SE¼SE¼;
Sec. 18, lots 7, 8, and 12, and SW¼SE¼;
Sec. 29, SW¼SW¼, S½SE¼SW¼, and SW¼SW¼SE¼;
Sec. 30, lots 1, 2, 6, and 11;
Sec. 32, W½NE¼ and NW¼.
T. 40 N., R. 4 E.,
Sec. 1, lots 1 and 8;
Sec. 12, NE¼NW¼NE¼, NW¼NW¼NE¼, S½NW¼NE¼, N½NE¼NW¼, and S½NE¼NW¼;
Sec. 28, S½NW¼SW¼;
Sec. 29, S½NE¼SE¼ and SE¼SE¼;
Sec. 33, W½E½SW¼ and SE¼SE¼SW¼.
T. 40 N., R. 5 E.,
Sec. 6, lot 2.
T. 41 N., R. 5 E.,
Sec. 33, NW¼NE¼SE¼.
All lands transferred herein consist of 1,866.70 acres, more or less.

[FR Doc.72-21006 Filed 12-6-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[Power Site Classification 463]

TAZIMINA RIVER AND LAKES, ALASKA

Power Site Classification

Correction

In F.R. Doc. 72–20533 appearing on page 25420 of the issue for Thursday, November 30, 1972, the headings should read as set forth above.

DEPARTMENT OF AGRICULTURE

Forest Service

DWORSHAK DAM AND RESERVOIR, IDAHO

Joint Order Interchanging Administrative Jurisdiction

CROSS REFERENCE: For a document issued jointly by the Department of Defense and the Department of Agriculture regarding interchange of administrative jurisdiction of certain lands, see F.R. Doc. 72–21006, Department of Defense, *supra.*

Office of the Secretary

DWORSHAK DAM AND RESERVOIR, IDAHO

Joint Order Interchanging Administrative Jurisdiction

CROSS REFERENCE: For a document issued jointly by the Department of Defense and the Department of Agriculture regarding interchange of administrative jurisdiction of certain lands, see F.R. Doc. 72–21006, Department of Defense, *supra.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. C–291]

BERNARD J. MATTERA AND MICHAEL J. MATTERA, JR.

Notice of Loan Application and Transfer of Fishery

NOVEMBER 30, 1972.

Bernard J. Mattera and Michael J. Mattera, Jr., 1328 15th Street, San Pedro, CA 90732, owners of the vessel *Bumble Bee*, purchased with the aid of a loan from the Fisheries Loan Fund to engage in the fishery for anchovies, sardines, squid, mackerel, tuna, and tunalike fishes, saury, croaker, Pacific Ocean perch, sea bass, barracuda, pompano, hake, sablefish, sharks, California halibut, sole, rockfishes, lobster, turbot, crabs, swordfish, and abalone have requested permission to extend their fishing operations to engage in the fishery for anchovies, sardines, squid, mackerel, tuna, and tunalike fishes, saury, croaker, Pacific Ocean perch, sea bass, barracuda, pompano, hake, sablefish, sharks, sole, rockfishes, lobster, turbot, crabs, swordfish, abalone, shrimp, salmon, halibut, and herring.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No.

4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-20975 Filed 12-6-72;8:49 am]

Office of Import Programs

CLARKSON COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00236-90-28500. Applicant: Thomas S. Clarkson Memorial College of Technology, Potsdam, N.Y. 13676. Article: Particle electrophoresis apparatus. Manufacturer: Rank Bros., United Kingdom. Intended use of article: The article is to be used for the measurements of electrophoretic mobilities of a variety of dispersed systems. The article will also be used in undergraduate/graduate courses in "Experimental Techniques in Colloid and Surface Science." Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant's use in measurement of electrophoretic mobilities of a variety of dispersed systems including study of flocculants and properties of the electrical double layer requires the precision of measurement which permits particles as small as 400 Angstroms to be measured. The foreign article has this capability. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 10, 1972, that the capability described above is pertinent to the purposes for which the article is intended to be used. HEW also advises that it knows of no scientifically equivalent domestic instrument.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-21030 Filed 12-6-72;8:47 am]

MEDICAL COLLEGE OF GEORGIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00065-33-46500. Applicant: Medical College of Georgia, 1459 Gwinnett Street, Augusta, GA 30902. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in experiments designed to study effects of variations in cooling rate, cryoprotectant concentration, and thawing rate on ultrastructure and function of cells and whole organs. Currently under investigation are the effects of freezing and thawing on these parameters in rat hearts and rabbit kidneys. The article will be used in the graduate (Ph. D. level) research training program in the Department of Pharmacology. Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reason: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by HEW in its memorandum of November 10, 1972, that cutting speeds in excess of 4 mm/sec are pertinent to the applicant's research studies. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-21027 Filed 12-6-72;8:47 am]

MOUNT SINAI SCHOOL OF MEDICINE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to sections 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at

the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00231-33-77040. Applicant: The Mount Sinai School of Medicine of the City University of New York, Fifth Avenue and 100th Street, New York, NY 10029. Article: Mass Spectrometer, Model JMS-01SC. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a research project involving the development of new diagnostic methods to detect human metabolic disorders, with an emphasis on inborn metabolic disorders in infants. Various body fluids (such as urine, blood, spinal fluid, and amniotic fluid) will be analyzed with the following objectives:

(1) To identify as many of the components of body fluids referred to above which have previously not been identified, or had been ignored or considered medically unimportant;

(2) To develop as much quantitative information on these components in as many samples as possible in order to develop normal standards by which to assess the significance of the presence of particular quantities of these components in the body fluids of particular individuals; and

(3) To develop as much quantitative information on these components as possible in the body fluids of individual patients for comparison at a later time with subsequent information from the same patient. Application received by Commissioner of Customs: November 9, 1972.

Docket No. 73-00232-99-61800. Applicant: University of Colorado, Purchasing Services Department, Regent Box 8, Boulder, CO 80302. Article: Planetarium Projection Instrument Model VI. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used primarily for university classes in astronomy and related sciences, in other fields that touch on astronomy or astronomical lore, and in teacher training. Courses are to be offered involving training in astronomy and the use of a planetarium for earth science, physical science, and physics teachers in the junior-senior high schools and for about 100 elementary school teachers. In addition, the article will be used for general public lectures. Application received by Commissioner of Customs: November 9, 1972.

Docket No. 73-00233-00-46040. Applicant: The Regents of the University of California, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Anticontamination device with accessories. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory to an existing electron microscope being used for studies of the retina and other tissues in the vertebrate eye as part of the ongoing research program of the Jules Stein Eye Institute. Application received by Commissioner of Customs: November 9, 1972.

Docket No. 73-00234-33-46040. Applicant: Johns Hopkins University School of Medicine, Department of Microbiology, 725 North Wolfe Street, Baltimore, MD 21205. Article: Electron Microscope, Model JEM-100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for electron microscopic studies of virus particles and their nucleic acids (DNA), as well as virus-infected cells and cancer cells. The article will also be used for research training of scientists in the fields of cancer and molecular genetics. Application received by Commissioner of Customs: November 7, 1972.

Docket No. 73-00236-33-46500. Applicant: Eunice Kennedy Shriver Center, 200 Trapelo Road, Waltham, MA 02154. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials consisting of muscle, peripheral nerve, and central nervous system tissue from fetal, newborn, young and adult experimental animals, and from humans in a program aimed at defining the causes and mechanisms of mental retardation and related disorders, to relate structural phenomena to disturbed mental and neurological functions, and ultimately to prevent, ameliorate, or cure such disturbances in man. The article will also be used to demonstrate the uses of electron microscopy in research and clinical neuropathology in a short course in the application of electron microscopy to the nervous system for neurology residents at Massachusetts General Hospital. Application received by Commissioner of Customs: November 14, 1972.

Docket No. 73-00237-99-61800. Applicant: Dallas Health and Science Museum, Fair Park, Box 26407, Dallas, TX 75226. Article: Planetarium Projector, Model MS-8. Manufacturer: Minolta Camera Co., Ltd., Japan. Intended use of article: The article is intended to be used in the below listed courses to demonstrate astronomical phenomena (related to astronomical and for navigational sciences as the course subject may require) and also allow student participation and involvement:

General planetarium program.
The Solar system.
Space exploration.
The stars.
The friendly stars.
Time and the stars.
Space and the solar system.

Application received by Commissioner of Customs: November 9, 1972.

Docket No. 73-00238-01-77030. Applicant: The City College of the City University of the City of New York, Chemistry Department, 138th Street and Convent Avenue, New York, NY 10031. Article: NMR Spectrometer, Model JNM-MH-100. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for instruction and training of undergraduate and graduate students in the performance of nmr experiments in conjunction with undergraduate and graduate student research. The experiments will include training in experimental techniques including decoupling and spectrum interpretation. The courses involved include: Chemical instrumentation, analytical chemistry, basic laboratory techniques for research in physical, analytical and inorganic chemistry. Application received by Commissioner of Customs: November 15, 1972.

Docket No. 73-00239-33-46595. Applicant: University of California, Facility for Advanced Instrumentation, Davis, Calif. 95616. Article: Pyramitome, LKB 11800-1. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sequential trimming-sectioning-retrimming and direct 90° viewing of plant and animal tissues during studies of the development of the pigment cells of the eyes of insects and studies of tissue to air space volume ratio of lung tissue as part of an air pollution study. Application received by Commissioner of Customs: November 13, 1972.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-21024 Filed 12-6-72;8:47 am]

RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892, et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00050-33-43400. Applicant: The Research Foundation of State University of New York, 1807 Elmwood Avenue, Buffalo, NY 14207. Article: Stepping micromanipulator. Manufacturer: AB Transvertex, Sweden. Intended use of article: The article is intended to be used in research on the nervous system for investigations of accurate and carefully controlled movements of recording microelectrodes in the brains of living anesthetized animals.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant's use in research on the nervous system of anesthetized animals requires the placement of recording microelectrodes in the brain with the precision and carefully controlled stepping motion provided by the article. We are advised by the Department of Health, Education, and Welfare in its memorandum dated November 10, 1972, that the capability described above is pertinent to the purposes for which

the article is intended to be used. HEW also advises that it knows of no comparable domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-21026 Filed 12-6-72;8:47 am]

SCRIPPS CLINIC AND RESEARCH FOUNDATION

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00226-33-46500. Applicant: Scripps Clinic and Research Foundation, 476 Prospect Street, La Jolla, CA 90237. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigation of biological materials, mainly mammalian tissues derived from experimental animals, to reveal at the ultrastructural level the structural bases of transport of macromolecules into and across cells under physiological and pathologic conditions; the position of tumor specific antigens, viral antigens, and histocompatibility antigens on lymphocyte and macrophage surfaces; and the synthesis of immunoglobin molecules in lymphocytes. Application received by Commissioner of Customs: November 14, 1972.

Docket No. 73-00227-33-46500. Applicant: University of Virginia, School of Medicine, Anatomy Department, Jordan Building R. 3-35, 1300 Jefferson Park Avenue, Charlottesville, VA 22901. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for preparing ultrathin sections of biological tissues derived from normal and experimental animals for use in experiments which will include electron microscopic studies of nerve cells and their processes. Application received by Commissioner of Customs: November 14, 1972.

Docket No. 73-00228-33-46500. Applicant: Brooklyn College of C.U.N.Y., Biology Department, Bedford Avenue and Avenue H., Brooklyn, NY 11210. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for experiments on the normal physiological behavior of endocrine structures with special emphasis placed on study of osmoregulation, segmentation and pituitary and gonad function. The article will also be used for educational purposes in the courses Animal History and Micro Technique, and Endocrinology. Application received by Commissioner of Customs: November 14, 1972.

Docket No. 73-00229-01-07500. Applicant: University of Virginia, Department of Biochemistry, 1300 Jefferson Park Avenue, Jordan Medical Education Building, Charlottesville, VA 22901. Article: Microcalorimeter, LKB 10700-2. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for research on the thermodynamics of biopolymer interactions. These interactions include the binding of small molecules to proteins (e.g. human hemoglobins) and the formation of complexes between protein subunits. Molar enthalpy changes associated with these interactions will be determined by mixing and/or dilution type experiments using either the batch microcalorimeter or the flow adapter. Changes in degree of molecular dissociation will be determined independently by optical measurements. Application received by Commissioner of Customs: November 14, 1972.

Docket No. 73-00230-58-46500. Applicant: University of Maryland, Department of Microbiology, College Park, Md. 20742. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to examine preparations of deep ocean and estuarine particulate matter, bacteria, and viruses. The experiments to be conducted are designed to determine cellular structure of bacteria under hydrostatic pressure. Also, cellular effects during uptake of mercury and during hydrocarbon degradation will be studied. The article will also be used in graduate research work for students pursuing the M.S. and Ph. D. degrees in marine microbiology and microbial ecology. Application received by Commissioner of Customs: November 14, 1972.

B. BLANKENHEIMER,
Acting Director,
Special Import Programs Division.

[FR Doc.72-21025 Filed 12-6-72;8:47 am]

UNIVERSITY OF AKRON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00139-36-46070. Applicant: The University of Akron, Institute of Polymer Science, 302 East Buchtel Avenue, Akron, OH 44304. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article is intended to be used in research on rubbery and glassy plastics, fabrics and resins, polymer latex samples for particle size analysis, and multiphase polymers. The article is also intended to be used for teaching courses in polymers, elastomers, and other related subjects.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a tensile attachment capable of operating from −120° C. to 500° centigrade (°C.), Comparable domestic instruments do not provide a tensile attachment capable of operating from −120° C. to 500° C. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 10, 1972, that the capability for a tensile attachment operating from −120° C. to 500° C. is pertinent to the purposes for which the article is intended to be used. NBS also advises that it knows of no comparable domestically manufactured instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-21029 Filed 12-6-72;8:47 am]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72–00604–01–68495. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: He^3 pumping package. Manufacturer: Alcatel Vacuum Technics, France. Intended use of article: The article is intended to be used to facilitate operation of a polarized proton target in an experiment to be performed at Brookhaven National Laboratory. In this experiment the resultant asymmetries in the scattering of K+, K mesons, and antiprotons will be measured when the direction of polarization is reversed.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: For the applicant's studies involving cooling of a polarized proton target to less than 0.5° K, a sealed He^3 (Helium^3) pumping system capable of maintaining a pressure of 0.16 torr is pertinent. The pressure of HE^3 at 0.5° K is 0.16 torr and a sealed vacuum system is necessary for preventing moisture from entering the vacuum system. Such moisture would condense and prevent the pumping system from operating. We are advised by the National Bureau of Standards (NBS) in its memorandum dated November 9, 1972, that the foreign article provides the pertinent characteristics described above. NBS further advises that it knows of no comparable domestically manufactured instrument which provides the pertinent characteristics. The Department of Commerce knows of no other instrument or apparatus of equivalent value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72–21028 Filed 12–6–72;8:47 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–348A, 50–364A]

ALABAMA POWER CO.

Notice and Order for Second Prehearing Conference

In the matter of Alabama Power Co. (Joseph M. Farley Nuclear Plant, Units 1 and 2).

Please take notice, that pursuant to prehearing conference order and order of referral to the Atomic Energy Commission of this Board dated September 28, 1972, and notice of antitrust hearing on application for construction permit in the matter of Georgia Power Co. (Edward I. Hatch Nuclear Plant, Unit 2) Docket 50–366A served November 30, 1972, a second prehearing conference will be held in the above-entitled proceeding on December 11, 1972, at 9 a.m. at the U.S. Department of Labor, Vanguard Building, Suite 720, 1111 20th Street NW., Washington, DC 20210.

At such conference the Board will hear oral argument on:

(a) Applicant's motion to limit the issues and any amendments thereto;

(b) The motion of the Department of Justice to consolidate this proceeding with the Matter of Georgia Power Co. (heretofore cited) and any amendments thereto, or modification thereof.

The Board will also consider, for the purpose of issuing an order thereon, the parties' contentions regarding contested issues of law and fact and the parties' position on the time schedule for discovery if any, for the final prehearing conference, and the formal hearing.

In addition, the Board will consider such other matters as may expedite the proceeding.

Issued at Washington, D.C., this 4th day of December 1972.

For the Atomic Safety and Licensing Board,

WALTER K. BENNETT,
Chairman.

[FR Doc.72–21094 Filed 12–6–72;8:45 am]

EMERGENCY CORE COOLING SYSTEMS AND LIGHT-WATER-COOLED POWER REACTORS

[Docket No. RM–50–1]

Notice of Availability of the Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that a document entitled "Draft Environmental Statement concerning Proposed Rule Making Action: Acceptance Criteria for Emergency Core Cooling Systems for Light-Water-Cooled Nuclear Power Reactors" has been made available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

On June 29, 1971, the Commission published in the FEDERAL REGISTER for use and comment its Interim Policy Statement, "Criteria for Emergency Core Cooling Systems for Light-Water Power Reactors" (36 F.R. 12247). Subsequently, the Commission published on December 18, 1971, amendments to the Interim Acceptance Criteria (36 F.R. 24082), and on January 27, 1972, began a public rulemaking hearing on the Interim Acceptance Criteria (36 F.R. 22774), which is still continuing.

The Draft Environmental Statement, issued in December 1972, was prepared by the Commission's regulatory staff and relates to the environmental impact of adoption of acceptance criteria for light-water-cooled nuclear power reactors. Copies of the Draft Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Regulatory Standards.

Interested persons may, within forty-five (45) days (by January 22, 1973) from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the Draft Environmental Statement. Comments should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. After consideration of the comments received, a Final Environmental Statement will be issued. Appropriate Governmental agencies are being provided with copies of the Draft Environmental Statement, and when comments thereon of the Governmental officials are received, they will be made available for public inspection at the Commission's Public Document Room.

Dated at Bethesda, Md., this 4th day of December 1972.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.72–21093 Filed 12–6–72;8:45 am]

[Docket No. 50–363]

JERSEY CENTRAL POWER & LIGHT CO.

Order Pursuant to Prehearing Conference and Notice of Evidentiary Hearing

In the matter of Jersey Central Power & Light Co. (Forked River Nuclear Generating Station, Unit No. 1), Docket No. 50–363.

Take notice, that pursuant to the Atomic Energy Commission's "Notice of Hearing on Application for Construction Permit" dated August 16, 1972, and the Atomic Safety and Licensing Board's notice dated November 7, 1972, a prehearing conference was held in Toms River, N.J., on November 28, 1972.

The Board ruled the following in the prehearing conference:

1. The State of New Jersey would have an opportunity to participate in accordance with § 2.715(c).

2. The request of Mr. William J. Arnold to withdraw the petition to intervene of Save the Ocean Society, Inc., Little Egg Harbor Township Chapter, was granted with the understanding that Mr. Arnold would make a limited appearance.

3. After the Board notified J. Lester Yoder, Jr., Esq., on behalf of Burtis W. Horner, Esq., Daniel Rappoport, Esq., and their respective clients, namely Henry J. Kurtz and Mary A. Kurtz, his wife, doing business as Oyster Creek Marina, Waretown, N.J.; Sands Point Marina, Inc., a New Jersey corporation, President Hans E. Baumgartner, Vice President Hans E. Baumgartner, Jr., Secretary Gertrude E. Baumgartner, Treasurer Charlotte H. Baumgartner, Waretown, N.J.; Charles

B. Mallie and Joseph P. DiPaolo, doing business as Briarwood Yacht Basin, Waretown, N.J., that the petition to intervene was not timely and that good cause would have to be established before it would be accepted by the Board, the applicant, regulatory staff, and the State of New Jersey, entered into a stipulation with Mr. Yoder and his associates that on behalf of the above-named clients, they or any of them, are admitted to this proceeding for the limited purpose of present direct testimony and cross-examining any witnesses offered by the applicant, the regulatory staff or the State of New Jersey on the question of the extent to which the operation of the proposed Forked River plant will affect the shipworm population and activity in Oyster Creek. They further stipulated that Mr. Yoder, his associates and their respective clients would have no right of discovery or appeal. All parties acknowledge on the record that they accepted the stipulation (which was reduced to writing and signed). The Board accepted the stipulation, admitting Mr. Yoder et al., for the stated limited purpose.

Applicant, regulatory staff, and the State of New Jersey requested that the rules of practice which became effective August 28, 1972, be applicable in this case. The Board now rules favorably on this request.

Take notice, the evidentiary hearing on health and safety will be held on December 15, 1972, at 10 a.m., local time, in the Dover Township Town Hall, 33 Washington Street, Toms River, NJ. (Use Robbins Street entrance.)

All members of the public are entitled to attend. Limited appearance statements will be called for at this time.

It is so ordered.

Issued at Washington, D.C., this 5th day of December 1972.

THE ATOMIC SAFETY AND LICENSING BOARD,
ELIZABETH S. BOWERS,
Chairman.

[FR Doc.72-21111 Filed 12-6-72;8:52 am]

SECURITY COMMUNICATIONS SYSTEM (SECOM) SITE

Trespassing on Commission Property

Notice is hereby given that the Atomic Energy Commission pursuant to section 229 of the Atomic Energy Act of 1954, as amended, as implemented by 10 CFR Part 160 published in the FEDERAL REGISTER on August 16, 1963 (28 F.R. 8400), prohibits the unauthorized entry, as provided in 10 CFR 160.3 and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 160.4, into or upon the Burlington AEC Plant Security Communications System (Secom) site of the Atomic Energy Commission, said site being a tract of land located within the Iowa Army Ammunition Plant, Des Moines County, Iowa, the aforesaid tract being more particularly described as follows:

Commencing at the southeast corner of sec. 36, T. 70 N., R., 4 W. of the 5th P.M., thence north 1223.25 feet; thence west 33 feet to the point of beginning; thence south 45°00'00" west 94.75 feet; thence west 712.20 feet; thence north 15°24'30" west 907.94 feet; thence north 37°59'30" east 14.80 feet; thence north 65°25'50" east 503.04 feet; thence north 89°59'40" east 408.40 feet; thence south 0°29'00" west 75.69 feet; thence south 89°31'00" east 82.08 feet; thence south 0°-29'00" west 30 feet; thence north 89°31'00" west 82.08 feet; thence south 0°29'00" west 90.00 feet; thence south 89°31'00" east 147.10 feet; thence south 832.24 feet to the point of beginning.

Notices stating the pertinent prohibitions of 10 CFR 160.3 and 160.4 and penalties of 10 CFR 160.5 will be posted at all entrances of said tract and at intervals along its perimeter as provided in 10 CFR 160.6.

Dated at Washington, D.C., this 30th day of November 1972.

J. A. ERLEWINE,
Acting General Manager.

[FR Doc.72-20970 Filed 12-6-72;8:50 am]

[Dockets Nos. 50-413, 50-414]

DUKE POWER CO.

Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

Duke Power Co., Post Office Box 2178, 422 South Church Street, Charlotte, NC 28201, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application which was docketed October 27, 1972, for authorization to construct and operate two pressurized water nuclear reactors at its site, located in York County, S.C. The site consists of 2,000 acres and is located on the shore of Lake Wylie.

The proposed nuclear facilities, designated by the applicant as Catawba Nuclear Station, Units 1 and 2, are designed for initial operation at approximately 3,411 megawatts (thermal) for each unit with a net electrical output of approximately 1180 megawatts for each unit.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after December 1, 1972.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and at the York County Library, 325 South Oakland Avenue, Rock Hill, SC 29730.

Duke Power Co. has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, a report entitled, "Duke Power Co., Catawba Nuclear Station, Units 1 and 2, Environmental Report." The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of Catawba Nuclear Station, Units 1 and 2, is also being made available at the Office of the Governor, Division of Administration, Wade Hampton Office Building, Columbia, S.C., and at the Central Piedmont Regional Planning Commission, Post Office Box 862, 107 Hampton Street, Rock Hill, SC 29730.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement related to the proposed action will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 28th day of November 1972.

For the Atomic Energy Commission.

KARL R. GOLLER,
Acting Assistant Director for Pressurized Water Reactors, Directorate of Licensing.

[FR Doc.72-20740 Filed 12-6-72;8:45 am]

[Docket Nos. 50-352 and 50-353]

PHILADELPHIA ELECTRIC CO.

Notice of Availability of AEC Draft Environmental Statement, Applicant's Environmental Report and Supplemental Environmental Reports

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D of 10 CFR Part 50, notice is hereby given that a Draft Environmental Statement related to the proposed issuance of a construction permit to Philadelphia Electric Co. for the proposed Limerick Generating Station, Units 1 and 2, to be located in Montgomery County, Pa., has been prepared by the Commission's Directorate of Licensing. The Draft Statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Pottstown Public Library, 500 High Street, Pottstown, PA 19464. The Draft Statement is also being made available at the Office of State Planning and Development, Box 1323, Harrisburg, PA 17120 and the Delaware Valley Regional Planning Commission, 1317 Filbert Street, Philadelphia, PA 19107. Copies of the Commission's Draft Environmental Statement may be obtained upon request addressed to the

U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Environmental Report and Supplements to the Environmental Report submitted by the Philadelphia Electric Co. are also available for public inspection at the above-designated locations. Notice of availability of the applicant's revised report was published in the FEDERAL REGISTER on June 12, 1972 (37 F.R. 11741).

Pursuant to 10 CFR Part 50, Appendix D, interested persons may, within forty-five (45) days from date of publication of this notice in the FEDERAL REGISTER, submit comments on the proposed actions, the report, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the report and the Draft Environmental Statement (local agencies may obtain these documents upon request) and, when any comments thereon by Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 30th day of November 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-20940 Filed 12-6-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24488; Order 72-11-141]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares

Issued under Delegated Authority, November 30, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, which has been assigned the above-designated CAB agreement number, was adopted for expedited effectiveness at the Worldwide Passenger Traffic Conference held in Torremolinos, Spain, September-October 1972.

The agreement would revalidate for a further period until April 30, 1973, the existing South Atlantic fare structure, and would amend the existing resolution governing 60-day excursion fares, and also establish a new 45-day excursion fare from points in South America to the area comprised of Europe/Africa/Middle East. These excursion fares would permit combinations of one half such fare with one half of the applicable normal economy class round trip fares between the same points for journeys via the South Atlantic in one direction and via the North and Mid-Atlantic in the other direction. We are approving the agreement to the extent that it involves fares which are combinable with fares to/from U.S. points and which thus have indirect application in air transportation as defined by the Act. South Atlantic Affinity Group Fares, on the other hand, are not similarly combinable, and we are herein disclaiming jurisdiction with respect to that aspect of the agreement.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, which are incorporated in Agreement CAB 23399 as indicated and which do not directly affect air transportation within the meaning of the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB 23399	IATA No.	Title	Application
R-1	001b	South Atlantic Special Effectiveness Resolution (Tie-In) (Amending).	1/2
R-2	002	Standard Revalidation—South Atlantic (Amending)	1/2; 1/2/3
R-3	070y	South Atlantic 60-Day Economy Class Excursion Fares (Revalidating and Amending).	1/2
R-4	071y	South Atlantic 45-Day Economy Class Excursion Fares (New)	1/2

2. It is not found that the following resolution, which is incorporated in Agreement CAB 23399 as indicated, affects air transportation within the meaning of the Act:

Agreement CAB 23399	IATA No.	Title	Application
R-5	076r	South Atlantic Affinity Group Fares (Revalidating and Amending).	1/2

Accordingly, it is ordered, That:

1. Agreement CAB 23399, R-1 through R-4, be and hereby is approved; and

2. Jurisdiction is disclaimed with respect to Agreement CAB 23399, R-5.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-21050 Filed 12-6-72;8:53 am]

[Docket No. 24764, Order 72-11-137]

WESTERN AIR LINES, INC.

Order Denying Petition for Reconsideration Regarding Military Standby Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of November 1972.

By Order 72-9-69 dated September 19, 1972, the Board suspended and set for investigation a proposal by Western Air Lines, Inc. (Western) which would have permitted military dependents to travel on the military standby fare between Anchorage and Seattle during off-season months.

The Department of Defense (DOD) has filed a petition for reconsideration,[1] alleging that Order 72-9-69 is in error in concluding that special national interest considerations similar to those that led the Board to approve special R&R fares between the mainland and Hawaii for wives and parents of Vietnam-based military personnel do not exist in this case; that achievement of an all-volunteer military service is a national defense policy goal that has been strongly advocated by the President of the United States on numerous occasions; that thousands of military personnel and their dependents are stationed in Alaska for extended periods of time; that the overwhelming majority of military personnel and their families do not have their permanent home in Alaska; and that the extraordinarily high cost of living in Alaska makes family visits to the contiguous States a great financial hardship.

DOD contends that the adverse effect on morale and welfare resulting from the

[1] The petition, which was filed 14 days late, was accompanied by a motion for leave to file an otherwise unauthorized document, explaining that its petition was late because DOD had not been served a copy of the suspension order. The petition for reconsideration was also accompanied by a petition for leave to intervene in the investigation. In view of DOD's interest in the matter, and since it was not served a copy of the suspension order, the Board will grant both the motion and the petition for leave to intervene.

hardships of family separations during extended tours in isolated areas were recognized by the Board when it authorized, under the new Part 372 of the Board's special regulations, overseas military charter operations for military personnel and their families in Alaska; that there is no history of such charter operations between Alaska and the contiguous 48 States due to the isolation of Alaska from the charter operators' main centers; and that Western's tariff is perfectly designed to generate new and nondiversionary "filler" traffic for the carrier during periods of low load factor, to the mutual advantage of both the carrier and the military service. DOD also alludes to military fares for servicemen and dependents on scheduled flights across the Atlantic and Pacific which have gone into effect in recent months.

An answer in support of DOD's petition has been filed by Western, alleging that sufficient extraordinary circumstances exist to demonstrate that the discrimination inherent in the proposed fares is not unjust and that the tariff is therefore lawful; and that the tariff can be adopted without fear of establishing a precedent for similar fares in the lower 48 States.

Alaska Airlines, Inc. (Alaska) has filed an answer in opposition to DOD's petition, alleging that neither DOD nor Western has presented any valid arguments which require the Board to reverse its earlier decision. Alaska alleges that Western's proposal contains a number of fallacies that accentuate its discriminatory aspects—the proposal involves travel only between Seattle and Anchorage and not other points on Western's system; that the proposal does not limit the fares to spouses and dependent children of the service personnel based and residing in Alaska; that allegations made by DOD and Western that the proposal is designed to generate new and nondiversionary "filler" traffic without significantly affecting Western's yield are unsupported; that neither DOD nor Western give any estimate as to the basis on which it is alleged that this traffic would be new and not diversionary; and that if Alaska had to meet Western's proposal, its yield would be adversely affected and little new traffic would be generated.

The Board finds that DOD's petition fails to establish any substantive reason for vacating Order 72-9-69 and will therefore deny the request. In that order, the Board suspended Western's proposal essentially because of the element of discrimination, and there is little in the instant petition which would override that finding. The Board clearly distinguished between Western's proposal and the R&R fares in effect between the mainland and Hawaii, and the DOD petition does not attempt to refute that finding except by a general statement that it was in error.

DOD also alleges that based on the existence of reduced fares for military spouses and dependents in international travel, Western's proposal is not unjustly discriminatory. However, while fares for military families do exist in other areas, significant distinctions exist between those fares and Western's proposal, and the fares cannot be considered a precedent for extending military dependent fares into domestic markets.

DOD contends that military charters as authorized by Part 372 of the Board's regulations have not been used between the continental U.S. and Alaska, and that it is doubtful that an effective charter operation can be developed. However, no indication is given that any effort has been made to develop such a charter program and we are not persuaded that it would be unfeasible, particularly in the Anchorage-Seattle market, in view of the thousands of military personnel and their dependents allegedly stationed in Alaska. On the other hand, if traffic volume is insufficient to warrant a charter program, it would be difficult to conclude that overriding questions of morale and significant national defense considerations are involved.

Accordingly, pursuant to the Federal Aviation Act of 1958,

It is ordered, That:

1. The motion of the Department of Defense for leave to file an otherwise unauthorized document and the petition of the Department of Defense for leave to intervene are hereby granted;

2. The request by the Department of Defense for reconsideration of Order 72-9-69 is hereby denied; and

3. Copies of this order will be served upon Western Air Lines, Inc., and upon Alaska Airlines, Inc., and the Department of Defense, who are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-21049 Filed 12-6-72;8:53 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary, Immediate Office.

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

[FR Doc.72-21019 Filed 12-6-72;8:46 am]

[1] Members Murphy and Minetti filed a concurrence and dissent, filed as part of the original document.

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary, Office of the Secretary, Immediate Office.

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

[FR Doc.72-21018 Filed 12-6-72;8:46 am]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Trade Adjustment Assistance, Domestic and International Business, Bureau of Domestic Commerce.

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

[FR Doc.72-21013 Filed 12-6-72;8:46 am]

DEPARTMENT OF JUSTICE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Legal and Legislative Counsel, Bureau of Prisons to General Counsel, Bureau of Prisons, Office of the Director.

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

[FR Doc.72-21021 Filed 12-6-72;8:47 am]

DEPARTMENT OF JUSTICE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the author-

ity of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Confidential Assistant to the Attorney General, Office of the Attorney General.

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

[FR Doc.72-21016 Filed 12-6-72;8:46 am]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of National Narcotics Intelligence, Office of the Attorney General.

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

[FR Doc.72-21015 Filed 12-6-72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Associate Administrator for Program Planning, Urban Mass Transportation Administration.

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

[FR Doc.72-21017 Filed 12-6-72;8:46 am]

DEPARTMENT OF THE TREASURY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Chief Counsel (Special Programs), Internal Revenue Service.

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

[FR Doc.72-21014 Filed 12-6-72;8:46 am]

ENVIRONMENTAL PROTECTION AGENCY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Legislation, Office of the Administrator.

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

[FR Doc.72-21020 Filed 12-6-72;8:46 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COSTA RICA

Entry or Withdrawal From Warehouse for Consumption

DECEMBER 1, 1972.

On November 28, 1972, the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, and extended through September 30, 1973, delivered a note to the Government of Costa Rica requesting that Government to enter into consultations concerning exports to the United States of cotton textile products in Category 51 (women's, girls' and infants' trousers, slacks, and outer shorts, not knit) produced or manufactured in Costa Rica. In that note the U.S. Government stated its view that exports in this category from Costa Rica should be restrained for the 12-month period beginning November 28, 1972 and extending through November 27, 1973.

Notice is hereby given that under the provisions of Article 3 and 6(c) of the Long-Term Arrangement, if no solution is mutually agreed upon by the two governments within sixty (60) days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption into the United States of cotton textile products in Category 51, produced or manufactured in Costa Rica, and exported from Costa Rica on and after the date of delivery of such note may be restrained.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.72-21022 Filed 12-6-72;8:47 am]

CERTAIN COTTON TEXTILES AND COTTON, WOOL, AND MAN-MADE FIBER TEXTILE PRODUCTS

Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 30, 1972.

The purpose of this notice is to announce that entries of cotton textiles and cotton textile products in Categories 1–64; wool textile products in Categories 101–126, 128, and 131–132;[1] and man-made fiber textile products in Categories 200–243, valued at $250 or less and imported for the noncommercial personal use of the individual importing such merchandise, shall not be subject to any level of restraint or other entry requirements now or hereafter put into effect pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. section 1854). This is intended to clarify an existing administrative practice of the Bureau of Customs designed to avoid inconvenience to individuals importing items of limited value for personal use, and, in particular, to those returning from overseas travel.

Accordingly, there is published below a letter of November 30, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs setting out the above exemptions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

NOVEMBER 30, 1972.

DEAR MR. COMMISSIONER: This directive cancels the directive issued to you on July 29, 1968, by the Chairman, President's Cabinet Textile Advisory Committee, concerning the exclusion from coverage of any directives establishing quantitative limitations on cotton textiles and cotton textile products of shipments valued at $250 or less which are imported for the noncommercial personal use of the individual importing the said merchandise.

Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed, effective as soon as possible and until further notice, to exclude from the coverage of any directives now or hereafter put into effect cotton textiles and cotton textile products, wool textile products, and manmade fiber textile products satisfying the following requirements:

Cotton textiles and cotton textile products in Categories 1–64, wool textile products in Categories 101–126, 128, and 131–132,[1] and

[1] The textile category structure for wool products does not contain Categories Nos. 127, 129, or 130.

man-made fiber textile products in Categories 200–243 entered into the United States for consumption and withdrawn from warehouse for consumption in quantities valued at $250 or less which are imported for the noncommercial personal use of the individual importing the said merchandise.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the administration of controls on imports of cotton textiles and cotton textile products, wool textile products, and manmade fiber textile products produced or manufactured abroad have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.72-21023 Filed 12-6-72;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. E-7743]

CONNECTICUT LIGHT & POWER CO.

Notice of Extension of Time and Postponement of Hearing

NOVEMBER 30, 1972.

On November 28, 1972, Commission staff counsel filed a motion for an extension of the procedural dates in the above-designated matter, and a postponement of the hearing fixed by the order issued August 14, 1972. The motion states that all parties have been contacted and that no party objects to the motion.

Upon consideration, notice is hereby given that the procedural dates fixed by the order issued August 14, 1972, in the above-designated matter are changed as follows:

Service of staff's evidence	Jan. 15, 1973.
Service of interveners' evidence	Jan. 29, 1973.
Service of rebuttal evidence of Connecticut Light & Power Co.	Feb. 19, 1973.
Hearing to commence	Mar. 6, 1973 (10 a.m., e.s.t.).

Consistent with the schedule set forth in the order issued August 14, 1972, as amended by this notice, the prehearing conference is postponed to January 23, 1973, at 10 a.m., e.s.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21041 Filed 12-6-72;8:52 am]

[Docket No. RP72-150, etc.]

EL PASO NATURAL GAS CO.

Notice of Extension of Time and Postponement of Hearing

DECEMBER 1, 1972.

On November 22, 1972, Commission staff counsel filed a motion for an extension of the procedural dates fixed by the orders issued July 31, 1972, in the above-designated matter. On November 28, 1972, Tucson Gas & Electric Co. and Washington Natural Gas Co. filed a letter offering no objection to the date for the service of staff's evidence, but requesting that all subsequent dates be postponed 1 additional week. On November 29, 1972, Commission staff counsel filed a letter stating that counsel for El Paso Natural Gas Co. and the interveners have been contacted and no party has indicated an objection to staff's motion. Further, the staff has no objection to the revised schedule proposed by Tucson and Washington Natural.

Upon consideration, notice is hereby given that the procedural dates fixed by the orders issued July 31, 1972, are changed as follows:

Service of staff's evidence	Jan. 26, 1973.
Interveners' evidence	Feb. 16, 1973.
El Paso's rebuttal evidence	Mar. 2, 1973.
Hearing and commencement of cross-examination (Docket No. RP72-150, et al.)	Mar. 13, 1973.
Hearing and commencement of cross-examination (Docket No. RP72-151, et al.)	Mar. 20, 1973.

The prehearing conference dates were unchanged.

Prehearing conference (Docket No. RP72-150, et al.)	Dec. 12, 1972.
Prehearing conference (Docket No. RP72-151)	Dec. 13, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21040 Filed 12-6-72;8:52 am]

[Docket No. CP73-138]

LONE STAR GAS CO.

Notice of Application

NOVEMBER 29, 1972.

Take notice that on November 22, 1972, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, TX 75201, filed in Docket No. CP73-138 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the calendar year 1973 and the operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally coextensive with said system and in constructing facilities to increased deliverability from existing sources of supply at levels which will insure an orderly depletion of reserves.

The application states that the total cost of all facilities will not exceed $700,000 and that no single project will cost in excess of $175,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21044 Filed 12-6-72;8:52 am]

[Docket No. E-7727]

NEW YORK POWER POOL

Notice of Proposed Changes in Rates and Charges

DECEMBER 1, 1972.

Take notice that New York Power Pool (NYPP) on March 3, 1972, tendered for filing proposed changes in its FPC Schedules C-1, Supplemental Capability

and Supplemental Energy, and C–3, Supplemental Capability Without Energy.[1] The changes are proposed to become effective as of April 30, 1972.

Pursuant to § 35.11 of the Commission's regulations, NYPP has also requested that the Commission waive the 30-day notice requirement for changes to rate schedules imposed by § 35.3(a) of the regulations and permit revised Schedules C–1 and C–3 to become effective as of April 30, 1972.

According to the company's transmittal letter, revised schedules have been unanimously approved by the executive committee of the New York Power Pool (Power Authority abstaining), pursuant to the terms of the New York Power Pool Agreement (Agreement).

The proposed schedules supersede the corresponding Schedules C–1 and C–3 as part of the Agreement. They provide for new charges for Supplemental Capability and Supplemental Energy (Schedule C–1) and for Supplemental Capability Without Energy (Schedule C–3). Charges for these services made under the Agreement as presently in effect are allegedly inadequate and outdated.

NYPP maintains that it is not possible to accurately estimate the number of supplemental capability and supplemental energy transactions which will take place throughout the State of New York or the resultant revenues. Therefore, no such estimate is enclosed and no comparison with the revenues resulting from transactions under the Agreement, as presently in effect and as amended, has been attempted.

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, D.C. 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 December 22, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing have been served on all parties to the Agreement, and copies are on file at the Federal Power Commission for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21046 Filed 12-6-72;8:52 am]

[Docket No. CP73-134]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 29, 1972.

Take notice that on November 20, 1972, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, NE 68102, filed a budget-type application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(d) of the Commission's regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the 3-year period commening January 1, 1973, and operation of certain natural gas storage facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to engage in a continuing program of testing and further developing reservoirs for the underground storage of natural gas for the benefit of its system operations and service to its customers. Applicant states that it will not utilize the authority requested herein for testing and development of its proposed Dallas Center Storage Field project for which an application for a certificate is presently pending in Docket No. CP72–251.

The total volume of natural gas to be injected into the prospective storage fields will not exceed a total of 10 million Mcf with no more than 2 million Mcf being injected into any single field. Total expenditures for the proposed 3-year project will not exceed $3 million and will not exceed $1 million in any one year. Applicant proposes to finance these costs from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21043 Filed 12-6-72;8:52 am]

[Docket No. RP73–63]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Petition for Order

DECEMBER 1, 1972.

Notice of petition for order permitting production from leases acquired prior to October 7, 1969 to be priced at area rate, permitting the creation of a revolving exploration fund and authorizing modification in purchased gas adjustment provision.

Take notice that Natural Gas Pipeline Company of American (Natural) on November 17, 1972, filed a petition for an order permitting production from leases acquired prior to October 7, 1969, to be priced at the applicable area rate. In addition Natural seeks permission to create a revolving exploration fund and authorization to modify its purchased gas adjustment provision.

In its petition, Natural states that it seeks Commission authorization of a program similar to that approved in Panhandle Eastern Pipeline Co. et al., Docket No. CP71–237 et al., but which Natural claims is better adapted to its individual situation.

Any person desiring to be heard or to protest said petition 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 December 11, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this petition are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21036 Filed 12-6-72;8:52 am]

[Docket No. E–7778]

ORANGE AND ROCKLAND UTILITIES, INC.

Notice of Application

DECEMBER 1, 1972.

Take notice that on September 29, 1972, Orange and Rockland Utilities, Inc. (Applicant) of Spring Valley, N.Y., filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of short-term unsecured promissory notes and commercial paper notes in the maximum principal amount of $55 million, outstanding at any one time, of which the

[1] By letters dated June 5, 1972, and August 17, 1972, the Commission informed NYPP that certain supporting data was necessary to complete the filing of NYPP. Pending receipt of this data, an official filing date has not yet been assigned.

aggregate amount of commercial paper notes to be outstanding at any one time would be no greater than 25 percent of Applicant's current 12 months gross operating revenues.

The promissory notes and the commercial paper notes are to be issued from time to time and are to mature not later than 1 year from the date of issue thereof and in no event later than March 31, 1974. The interest rate will be not over one-fourth of 1 percent in excess of the New York City prime rate on promissory notes and commercial paper notes.

The proceeds from the issuance of the notes will be used to finance the construction, completion, extension or improvement of Applicant's facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21039 Filed 12-6-72;8:52 am]

[Project 96]

PACIFIC GAS & ELECTRIC CO.

Notice of Issuance of Annual License

NOVEMBER 30, 1972.

On August 31, 1970, Pacific Gas & Electric Co., licensee for Kerckhoff Project No. 96, located on the San Joaquin River in Fresno and Madera Counties, Calif., and affecting U.S. lands of the Sierra National Forest, filed an application under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1–16.6).

The license for Project No. 96 was issued effective December 2, 1922, for a period ending December 1, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Pacific Gas & Electric Co. for the continued operation and maintenance of Project No. 96.

Take notice that an annual license is issued to Pacific Gas & Electric Co. (licensee) under section 15 of the Federal Power Act for the period December 2, 1972, to December 1, 1973, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Kerckhoff Project No. 96, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21042 Filed 12-6-72;8:52 am]

[Docket No. E-7802]

PACIFIC POWER & LIGHT CO.

Notice of Filing of Initial Electric Service Tariff

NOVEMBER 30, 1972.

Take notice that Pacific Power & Light Co. (Pacific), on October 31, 1972, as completed on November 6, 1972, tendered for filing an initial electric service tariff for service to the cities of Burbank and Pasadena, Calif., to become effective 30 days following the Commission's acceptance of the filing.

The rate contained in the tariff is the same as in Pacific Power & Light Co. Rate Schedules FPC No. 97 and FPC No. 102 for similar service rendered to other utilities. The tendered filing includes signed agreements with the two customer cities mentioned above.

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 December 12, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21034 Filed 12-6-72;8:52 am]

[Docket No. E-7172]

SOUTHWESTERN POWER ADMINISTRATION

Notice of Request for Approval of Rates and Charges

DECEMBER 1, 1972.

Notice is hereby given that the Secretary of the Interior (Secretary), acting on behalf of the Southwestern Power Administration (SWPA) and pursuant to Section 5 of the Flood Control Act of 1944 (58 Stat. 887, 890), on October 30, 1972, filed with the Federal Power Commission a request in Docket No. E-7172 for an extension of the Commission's confirmation and approval of SWPA's rates and charges for the sale to Tex-La Electric Cooperative, Inc. (Tex-La) of electric power and energy generated by the south generating unit of the Denison Dam (Lake Takoma) Project located in the vicinity of Denison, Tex. The Commission, by order issued June 4, 1968, in Docket No. E-7172 (39 FPC 928), approved SWPA's above-mentioned rates for the period terminating July 1, 1972. Approval of such rates is now requested for the period ending May 31, 1974.

The proposed rates and charges are included in the amendatory agreement dated January 5, 1968, between the United States of America, acting through the Secretary as represented by the Administrator of SWPA, and Tex-La, which amended the power sales agreement dated October 20, 1958, between the same parties. A copy of the amendatory agreement, designated as Contract No. 14-02-001-864-8, was submitted with the Secretary's request. Under the provisions of the amendatory agreement, not more than 15,000 kilowatts of firm power and associated energy is sold by SWPA to Tex-La for service to certain members of Tex-La in Texas at (1) a monthly capacity charge of $1.60 per kw. of billing demand (as defined in the amendatory agreement) and (2) a monthly energy charge of 2 mills per kw.-hr. for the first 150 kw.-hr. per kw. of billing demand, 3 mills per kw.-hr. for the next 290 kw.-hr. per kw. of billing demand, and 5 mills per kw.-hr. for energy in excess of 440 kw.-hr. per kw. of billing demand. The amendatory agreement also provides that the firm power capacity and associated energy purchased by Tex-La from SWPA may be delivered to Tex-La's members by Texas Power & Light Co. (TP&L) over its facilities for the account of SWPA in accordance with certain contractual arrangements between SWPA and TP&L.

The proposed rates and charges, as described above, are on file with the Commission and available for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to said rates and charges should submit the same in writing on or before December 18, 1972, to the Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21038 Filed 12-6-72;8:52 am]

FEDERAL RESERVE SYSTEM

BANKERS TRUST NEW YORK CORP.

Acquisition of Bank

Bankers Trust New York Corp., New York, N.Y., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Farmers National Bank of Malone, Malone, N.Y. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 28, 1972.

Board of Governors of the Federal Reserve System, December 1, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20984 Filed 12-6-72;8:49 am]

DEPOSIT GUARANTY CORP.

Proposed Acquisition of Bridges Loan & Investment Company, Inc.

Deposit Guaranty Corp., Jackson, Miss., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Bridges Loan & Investment Company, Inc., Jackson, Miss. Notice of the application was published on November 4, 1972, in The Clarion Ledger, a newspaper circulated in Jackson, Miss.

Applicant states that the proposed subsidiary would engage in the activities of (1) making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; and (2) servicing loans and other extensions of credit for any person. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., 20051, not later than December 28, 1972.

Board of Governors of the Federal Reserve System, December 1, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board

[FR Doc.72-20985 Filed 12-6-72;8:49 am]

FIRST NATIONAL CORPORATION OF EL RENO, INC.

Formation of Bank Holding Company

First National Corporation of El Reno, Inc., El Reno, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 95 percent of the voting shares of The First National Bank, El Reno, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve bank to be received not later than December 18, 1972.

Board of Governors of the Federal Reserve System, December 1, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20983 Filed 12-6-72;8:49 am]

FIRST NATIONAL HOLDING CORP.

Proposed Acquisition of Kennesaw Finance Co. of Canton

First National Holding Corp., Atlanta, Ga., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire all of the outstanding voting shares of Kennesaw Finance Co. of Canton, Canton, Ga. Notice of the application was published on October 5, 1972, in the North Georgia Tribune, a newspaper circulated in Canton, Ga.

Applicant states that the proposed subsidiary would engage in the following activities: Making, acquiring, or servicing loans or other extensions of credit for personal, family, or household purposes, and acting as insurance agent or broker in selling insurance to borrowers from such finance subsidiaries, to include credit life insurance, accident and health insurance, and property damage insurance for collateral supporting loans made by such finance subsidiaries. Such activities will be conducted at offices in the following locations: Marietta Road, Canton, Ga. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 28, 1972.

Board of Governors of the Federal Reserve System, December 1, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20986 Filed 12-6-72;8:49 am]

FIRST NATIONAL HOLDING CORP.

Proposed Acquisition of Kennesaw Finance Co. of Villa Rica

First National Holding Corp., Atlanta, Ga., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire all of the outstanding voting shares of Kennesaw Finance Co. of Villa Rica, Villa Rica, Ga. Notice of the application was published on October 4, 1972, in the Villa Rican, a newspaper circulated in Villa Rica, Ga.

Applicant states that the proposed subsidiary would engage in the following activities: Making, acquiring, or servicing loans or other extensions of credit for personal, family, or household purposes, and acting as insurance agent or broker in selling insurance to borrowers from such finance subsidiaries, to include credit life insurance, accident and health insurance, and property damage insurance for collateral supporting loans made by such finance subsidiaries. Such activities will be conducted at offices in the following locations: 228 Montgomery Street, Villa Rica, GA. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 28, 1972.

Board of Governors of the Federal Reserve System, December 1, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20987 Filed 12-6-72;8:49 am]

MID AMERICA BANCORPORATION, INC.

Order Approving Acquisition of Bank

Mid America Bancorporation, Inc., St. Paul, Minn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Hillcrest State Bank of St. Paul, St. Paul, Minn. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls seven banks with aggregate deposits of approximately $69 million, representing 0.7 percent of the total commercial bank deposits in the State, and is the seventh largest banking organization in Minnesota. (All banking data are as of December 31, 1971, and reflect bank holding company formations and acquisitions approved by the Board through November 15, 1972.) Applicant's acquisition of Bank ($12.5 million in deposits) would increase Applicant's share of deposits in Minnesota by 0.1 percentage point, without changing its ranking within the State.

Bank is located adjacent to a local shopping center 5 miles northeast of the St. Paul central business district. The relevant market area is the Minneapolis-St. Paul banking market in which Applicant has six banking subsidiaries, the closest being located some 9 miles to the west of Bank, in Roseville. There is no substantial existing competition between Applicant's present banking subsidiaries and Bank; and, for several reasons, including the distances involved, the presence of banking alternatives in the intervening areas, and Minnesota's prohibition against branch banking, there is no substantial likelihood of future competition developing between those subsidiaries and Bank. For similar reasons, there is no significant possibility of substantial competition developing between Bank and Applicant's other banking subsidiary, which is located about 60 miles west of the Minneapolis-St. Paul area.

Additionally, consummation of this transaction might have a beneficial effect on competition in the Minneapolis-St. Paul banking market. Six other bank holding company groups hold, in the aggregate, nearly 81.9 percent of market deposits, while Applicant controls only 1 percent of market deposits. Acquisition of Bank would increase Applicant's share of market deposits by 0.2 percentage points, would give it representation in an area of the Twin Cities in which it is presently not represented, and, thus, might enable it to provide more effective competition for the larger banking organizations in the Minneapolis-St. Paul banking market. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

Considerations relating to the financial and managerial resources and future prospects of Applicant and its subsidiary banks and Bank are regarded as satisfactory, in view of Applicant's commitment to provide additional capital funds to Bank and to two of its banking subsidiaries. Applicant can provide lending policy guidance that might strengthen the overall asset condition and management of Bank, and this consideration lends some weight for approval of the application. Convenience and needs considerations relating to the communities to be served are consistent with approval. It is the Board's judgment that consummation of the proposed acquisition 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 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 Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 30, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20989 Filed 12-6-72;8:49 am]

NATIONAL CITY CORP.

Formation of Bank Holding Company

National City Corp., Cleveland, Ohio, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The National City Bank of Cleveland, Cleveland, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than December 18, 1972.

Board of Governors of the Federal Reserve System, December 1, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20982 Filed 12-6-72;8:49 am]

PACESETTER FINANCIAL CORP.

Order Approving Formation of Bank Holding Company

Pacesetter Financial Corp., Grand Haven, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares of the successor by consolidation to Security First Bank & Trust Co., Grand Haven, Mich. (Grand Haven Bank), and 100 percent of the voting shares of the successor by consolidation to Traverse City State Bank, Traverse City, Mich. (Traverse City Bank). The banks into which Grand Haven Bank and Traverse City Bank are to be consolidated have no significance except as a means to facilitate the acquisition of all shares of Grand Haven and Traverse City banks. Accordingly, the proposed acquisition of the successor organizations is treated herein as the proposed acquisition of Grand Haven Bank and Traverse City Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation formed for the express purpose of acquiring Grand Haven Bank which has aggregate deposits of $53.8 million and Traverse City Bank with total deposits of $72.4 million. (All banking data are as of June 30, 1972 except market data deposit figures are shown as of December 31, 1971.) Consummation of this formation would represent only a nominal increase in concentration of banking resources in Michigan, and concentration in the local markets would not be affected.

There is no significant existing competition between the Grand Haven and Traverse City Banks, the main offices of which are located 135 miles apart. Nor does it appear likely that any substantial amount of future competition would develop between them.

Grand Haven Bank is the fourth largest of six banks in its market area, the three largest of which hold total area

deposits of $128, $90, and $74 million, respectively. Consummation of this proposal would have no significant adverse effect on the other market banks. Although Traverse City Bank is the largest bank in its market, there are two area banks of substantial size with aggregate deposits of $34 and $30 million each, and it does not appear that the proposed formation would have any significant adverse effect on the operations of these market banks. Competitive considerations are consistent with approval of the application.

Applicant has no present operations, and its financial condition, management, and future prospects are dependent on those same conditions as they exist in Grand Haven and Traverse City Banks. The financial condition of Grand Haven Bank is considered to be generally satisfactory in view of Applicant's commitment to provide additional equity capital for the bank within the near future. The financial condition of Traverse City Bank is deemed to be generally satisfactory. Management of both banks is judged to be capable, and prospects for the group appear favorable. Banking factors are consistent with approval of the application. The banking needs of the communities appear to be satisfactorily served at the present time, and Applicant proposes no substantial changes in existing services. However, the proposed formation would result in increased administrative and managerial skills, broader loan bases, and greater capitalization, all of which would ultimately benefit the communities. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that the transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the 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 Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 30, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20988 Filed 12-6-72;8:49 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

SECURITIES AND EXCHANGE COMMISSION

[70-5271]

COLUMBIA GAS SYSTEM, INC., ET AL.

Proposed Open Account Advances to Subsidiary Companies

DECEMBER 1, 1972.

In the matter of The Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, DE 19807; Columbia Gas Transmission Corp., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Ohio, Inc., The Ohio Valley Gas Co., Columbia Gulf Transmission Co., Columbia LNG Corp., Columbia Hydrocarbon Corp., The Inland Gas Co., Inc.

Notice is hereby given, that The Columbia Gas System, Inc. (Columbia), a registered holding company, and its wholly owned subsidiary companies listed above have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 9, 10, and 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

During the winter heating season, certain of Columbia's operating subsidiary companies, particularly the distribution companies, generate substantial cash in excess of current requirements. On the other hand, the transmission subsidiary companies generate smaller amounts of cash during such months and their construction expenditures are generally larger, with the result that Columbia must advance such subsidiary companies funds under Commission authorization while other subsidiary companies have cash considerably in excess of current requirements. In recent years, however, the Commission has authorized open account advances by Columbia to subsidiary companies and certain related transactions which are designed to alleviate this situation. The present filing requests authorization to continue such transactions during the calendar year 1973.

It is proposed that the subsidiary companies listed below will, in accordance with the exemptive provisions of Rule 42(b)(2) under the Act, prepay with excess cash, from time to time prior to the end of 1973, a portion of their outstanding promissory notes held by Columbia. The notes prepaid will not exceed the following amounts, which represent the maximum excess funds that such companies are expected to accumulate at any one time during the year 1973.

Columbia Gas Transmission Corp	$100,000,000
Columbia Gas of Pennsylvania, Inc	20,000,000
Columbia Gas of New York, Inc	2,500,000
Columbia Gas of Maryland, Inc	2,000,000
Columbia Gas of Kentucky, Inc	4,000,000
Columbia Gas of Virginia, Inc	2,000,000
Columbia Gas of West Virginia, Inc	7,000,000
Columbia Gas of Ohio, Inc	50,000,000
The Ohio Valley Gas Co	5,000,000
Columbia Gulf Transmission Co	30,000,000
Columbia Hydrocarbon Corp	1,000,000
The Inland Gas Co., Inc	1,000,000
Columbia LNG Corp	12,000,000
Total	$236,500,000

The notes prepaid by the individual companies will be those bearing the highest interest rate or rates outstanding at the time of each prepayment. As any of such companies require funds for construction and other corporate purposes after prepayment, it is proposed that advances be made to them on open account by Columbia: *Provided*, That at no time will the amount of such advances to any subsidiary exceed the amount of indebtedness theretofore prepaid by it, less any current maturities applicable to prepaid notes which would have matured subsequent to the date of prepayment.

Open account advances to any subsidiary company will bear interest at the same rate or rates as borne by the equivalent principal amounts of indebtedness previously prepaid by it during 1973, but in reverse order to that of the prepayments, i.e., working up from the lowest rate payable on the indebtedness previously prepaid to the highest rate. The proposed advances on open account to individual subsidiary companies will be increased or decreased from time to time in accordance with variations in the cash flow of the individual subsidiary companies. At such time as the advances to any subsidiary company equal the aggregate amount of the indebtedness prepaid by it, or in any event not later than December 31, 1973, such prepaid indebtedness will be reinstated in repayment of the outstanding open account advances.

No financing of any operating subsidiary company which may be presently or subsequently authorized by the Commission in connection with the construction or gas storage programs of any such subsidiary company will be consummated until such time as advances have been made equal to the amount of indebtedness prepaid. Any subsidiary company

which during 1973 has borrowed on open account from Columbia an amount smaller than the amount of indebtedness theretofore prepaid by it, will, on December 31, 1973, reinstate its indebtedness to Columbia in an amount sufficient to discharge its open account borrowings, and the balance of its prepaid indebtedness will be considered to have been permanently prepaid. Such permanent prepayment would be applied against indebtedness bearing the highest interest rates and would be consummated only with respect to indebtedness bearing interest at a rate equal to or in excess of the rate applicable to borrowings by subsidiary companies from Columbia as at December 31, 1973. In the event that a permanent prepayment by any subsidiary company would be indicated with respect to indebtedness bearing an interest rate less than said rate at December 31, 1973, such indebtedness will be reinstated by the subsidiary company at or before the end of 1973.

It is stated that the proposed transactions are designed to utilize effectively aggregate system funds and to achieve the following: (1) prepayment of inventory loans with commercial banks and other short-term borrowings at the earliest date, (2) deferment of outside financing until aggregate system funds approach a minimum balance, (3) facilitation of the internal financing of emergency requirements, and (4) allow operating subsidiaries, during any period in which they have excess cash, to temporarily prepay promissory notes owed Columbia, thereby decreasing their net corporate interest expense.

Expenses to be incurred by Columbia and its subsidiary companies in connection with the proposed transactions are estimated at $225 and $2,600, respectively, $550 of these aggregate expenses being for services at cost, to be provided by Columbia Gas System Service Corp.

It is stated that the Public Service Commission of West Virginia has authorized the prepayment and reissuance of prepaid notes by Columbia Gas of West Virginia; that the Public Service Commission of New York has authorized the reissue of prepaid notes by Columbia Gas of New York, Inc.; and that the Public Service Commission of Kentucky and the State Corporation Commission of Virginia previously authorized the issuance of prepaid notes by Columbia Gas of Kentucky, Inc., and Columbia Gas of Virginia, Inc., respectively.

Notice is further given that any interested person may, not later than December 27, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing therein. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20997 Filed 12-6-72;8:49 am]

[70-5191]

CONSOLIDATED NATURAL GAS CO.

Post-Effective Amendment Regarding Issue and Sale of Notes to Holding Company

DECEMBER 1, 1972.

In the matter of Consolidated Natural Gas Co., 30 Rockefeller Plaza, New York, N.Y. 10020, Consolidated System LNG Co., Consolidated Gas Supply Corp., Consolidated Natural Gas Service Co., Inc., The East Ohio Gas Co., The Peoples Natural Gas Co., The River Gas Co., West Ohio Gas Co.

Notice is hereby given that Consolidated Natural Gas Co. (Consolidated), a registered holding company, and its subsidiary service company, Consolidated Natural Gas Service Co., Inc. (Service Company), have filed with this Commission a post effective amendment to the application-declaration heretofore filed in this proceeding pursuant to sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Public Utility Holding Company Act of 1935 (Act) and Rules 43, 45, 50(a)(2) promulgated thereunder. All interested persons are referred to the application-declaration, as now amended which is summarized below, for a complete statement of the proposed transaction.

The Commission has heretofore authorized Consolidated and certain of its subsidiary companies to engage in various security transactions in connection with the System's financing program for 1972 (see Holding Company Act Release No. 17605). Service Company did not join in said joint application-declaration. Since the issuance of the Commission's order, Service Company has undertaken to acquire land at a cost of $112,500 and to construct a new data processing center at an estimated cost of $787,500. In order to meet the aforesaid costs through May 1973, Service Company proposes to issue and sell to Consolidated, and Consolidated proposes to purchase, as funds are required and called for by the treasurer of Service Company, up to $750,000 principal amount of nonnegotiable, unsecured long-term notes due April 30, 1997. The notes shall bear interest payable semi-annually at a rate of 7.65 percent per annum, which rate is substantially equal to Consolidated's cost of money on its most recent issue of long-term debentures. Service Company will have the right to prepay any part or all of the notes at any time at their principal amount without premium.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is estimated that the expenses to be incurred in connection with the proposed transaction, all to be paid by Consolidated, will not exceed $600.

Notice is further given that any interested person may, not later than December 26, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said posteffective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropirate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20998 Filed 12-6-72;8:49 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

NOVEMBER 30, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, That trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 1, 1972, through December 10, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20993 Filed 12-6-72;8:48 am]

[File No. 500-1]

DCS FINANCIAL CORP.

Order Suspending Trading

NOVEMBER 29, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, and all other securities of DCS Financial Corp. being traded otherwise than on a natonal securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:45 a.m. (e.s.t.) on November 29, 1972, through December 8, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20991 Filed 12-6-72;8:48 am]

[812-3296]

MASSACHUSETTS INVESTORS GROWTH STOCK FUND, INC.

Application for Exemption

DECEMBER 1, 1972.

Notice is hereby given that Massachusetts Investors Growth Stock Fund, Inc. (MIGS), 200 Berkeley Street, Boston, MA 02116, a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) as a diversified, open-end management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued without any sales charges in exchange for substantially all of the assets of Planters Cotton Oil Mill, Inc. (Planters). All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Planters, an Arkansas corporation, is a personal holding company, all of whose outstanding common stock, the only class outstanding, is held, in the aggregate, by not more than four individuals.

In October 1972, MIGS and Planters entered into an Agreement and Plan of Reorganization (Agreement) whereby substantially all the assets of Planters are to be transferred to MIGS in exchange for shares of $1 par value capital stock of MIGS. Pursuant to the Agreement, the number of MIGS shares to be delivered to Planters shall be determined on the business day preceding the closing date, as defined in the Agreement, by dividing the net value of the assets of Planters (subject to certain adjustments as set forth in the Agreement) to be transferred to MIGS by the net asset value per share of MIGS. It is a condition of the agreement that the Internal Revenue Service issue a ruling prior to the closing that the proposed exchange will be a tax free reorganization, in which case MIGS tax basis for the Planters' assets to be transferred to MIGS will be the same as Planters' tax basis for such assets. The adjustment in the Agreement provides a formula to minimize the potential tax effect, if any, to MIGS of any disproportion in realized and unrealized taxable gains and losses of the combining companies.

As of September 29, 1972, the net asset value of MIGS stock was $14.97 per share, and the net value of the assets of Planters to be delivered to MIGS was approximately $1,483,878. Assuming that the closing under the Agreement had taken place on that date, there would have been no adjustment to the value of assets of Planters to be transferred, and Planters would have received 99,123,447 shares of MIGS in the exchange.

Section 22(d) of the Act provides, in pertinent part, that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. The public offering price of MIGS shares, as described in its prospectus, includes sales charges. Section 6(c) of the Act permit the Commission, upon application, to exempt a transaction from the provisions of the Act if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

It is represented that the proposed acquisition will be beneficial to the shareholders of MIGS because it will enable MIGS to increase its portfolio size without brokerage expenses and without affecting the prices of the shares to be acquired, and that the increase in portfolio size will result in lesser expenses per share of MIGS outstanding stock.

Notice is further given that any interested person may, not later than December 18, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneousously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20992 Filed 12-6-72; 8:48 am]

[File No. 500-1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

NOVEMBER 30, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Meridian Fast Food Services, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to Section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 2, 1972 through December 11, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20994 Filed 12-6-72;8:48 am]

[File No. 500-1]

MONARCH GENERAL, INC.

Order Suspending Trading

NOVEMBER 30, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Monarch General, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 2, 1972, through December 11, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20995 Filed 12-6-72;8:48 am]

[File No. 500-1]

TIDAL MARINE INTERNATIONAL CORP.

Order Suspending Trading

NOVEMBER 30, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.05 par value, and all other securities of Tidal Marine International Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 3, 1972 through December 12, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20996 Filed 12-6-72;8:48 am]

TARIFF COMMISSION

[AA1921-102]

BASE METAL PARTS FOR INCANDESCENT ILLUMINATING ARTICLES, SUITABLE FOR RESIDENTIAL USE, FROM CANADA

Determination of No Injury or Likelihood Thereof

DECEMBER 1, 1972.

The Treasury Department advised the Tariff Commission on September 1, 1972, that base metal parts for incandescent illuminating articles, suitable for residential use, from Canada are being, or are likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-102 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.

Notice of the institution of the investigation and of a hearing to be held in connection therewith was published in the FEDERAL REGISTER of September 13, 1972 (37 F.R. 18589). A public hearing was held on October 17, 1972.

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined unanimously that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established, by reason of the importation of base metal parts for incandescent illuminating articles, suitable for residential use, from Canada.

STATEMENT OF REASONS [1]

In the instant antidumping case, the Treasury Department advised the Commission that base metal parts for incandescent illuminating articles suitable for residential use from Canada (hereinafter referred to as base metal lamp parts) are being or are likely to be sold at less than fair value. These base metal parts include a wide variety of individual parts that are used to manufacture residential incandescent lighting fixtures and lamps; they are made principally of steel; they are both decorative and functional; they are made by several manufacturing processes, including stamping, spinning, and casting.

The Treasury's determination of sales at less than fair value covered all the base metal lamp parts described above, but the imported articles entering from Canada on which the Treasury made price comparisons to determine whether there were sales at less than fair value consisted of base metal parts produced by stamping. Consequently, in making its decision in this case, the Commission considered the possible effects of the LTFV sales on the facilities in the United States producing base metal lamp parts, but gave special attention to the possible effects of those sales on the facilities producing stamped and spun parts.

As set forth above, the Commission has made a negative determination in this case. We find that market penetration by the LTFV articles is negligible, adverse price effects from the sale of the LTFV parts are minimal at most, sales of base metal lamp parts by domestic concerns have increased in value, and domestic operations appear to have been profitable.

U.S. imports of stamped or spun base metal lamp parts from Canada in appreciable volume have been a recent development. They began in 1970 and then amounted to about $200,000 in 1971 (the year that encompassed the period of Treasury's investigation). Although Treasury found that virtually all of the Canadian articles were sold at less than fair value, the volume that was sold to the United States has been very small in relation to shipments of base metal lamp parts by domestic producers. Indeed, sales in the United States of Canadian base metal lamp parts in 1971 (all stamped or spun) were equivalent to less than 1 percent of domestic producers' sales of stamped and spun parts and an even smaller percentage of the producers' sales of all base metal lamp parts.

The Canadian base metal lamp parts have been sold in the United States at prices generally somewhat below those of comparable domestic articles, but such sales appear to have had no adverse effect on the prices of such domestic articles in the U.S. market. The prices of domestic base metal lamp parts produced by stamping and spinning—i.e., those most comparable to the Canadian articles found by Treasury to have been sold at less than fair value—increased during 1970-72, when imports of the articles concerned from Canada have occurred. The price increases generally ranged from 5 to 10 percent of the 1970 price.

Shipments of base metal lamp parts by U.S. producers were significantly larger in 1971 than in any year during the period 1967-70 (before appreciable entries from Canada began). Based on data reported to the Commission by virtually all domestic producers, for example, domestic shipments of stamped and spun parts were 20 percent larger in value in 1971 than in 1970. Comparable data respecting shipments of all base metal lamp parts are not available, but domestic shipments of residential lighting fixtures (in which the parts were used) in 1971 were about 7 percent larger in value than in 1970.

Finally, the Commission was able to obtain data on the financial experience of only two domestic concerns producing base metal lamp parts—but both were substantial producers of the articles concerned. In 1971, the year for which Treasury found sales at less than fair value, sales and profits by both concerns were at a peak for the years 1967-71.

On the basis of the foregoing, the Commission has determined that an industry in the United States is not being or is not likely to be injured (or prevented from being established) by reason of the importation of base metal parts for incandescent illuminating articles,

[1] Commissioner Ablondi concurs in the result.

suitable for residential use, from Canada at less than fair value.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-21008 Filed 12-6-72;8:46 am]

[TEA-I-26]

MEN'S AND BOYS' NECKTIES

Notice of Rescheduling of Hearing

Notice is hereby given that the hearing in Investigation No. TEA-I-26, under section 301(b) of the Trade Expansion Act of 1962 scheduled to be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., January 23, 1973, has been rescheduled for 10 a.m., e.s.t., on February 6, 1973.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of November 8, 1972 (37 F.R. 23762).

Issued: December 4, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-21051 Filed 12-6-72;8:51 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management, Reg.; Temporary Reg. F-162]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the San Antonio City Council, San Antonio, Tex., in a proceeding involving the application of Southwestern Bell Telephone Co. for a telephone rate increase.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON, *Acting Administrator of General Services.*

NOVEMBER 30, 1972.

[FR Doc.72-20981 Filed 12-6-72;8:49 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-28]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, COMMITTEE ON SPACE VEHICLES

Notice of Public Meeting

DECEMBER 15, 1972.

The NASA Research and Technology Advisory Council, Committee on Space Vehicles, will meet on December 15, 1972, at the Ames Research Center, Moffett Field, Calif. 94035. The meeting will be held in the Committee Room of the Administration Building (Building 200). Members of the public will be admitted to the open portion of the meeting beginning at 8:30 a.m. indicated on the agenda below on a first-come-first-served basis up to the seating capacity of the room, which is about 30 persons. All visitors must report to Ames Gate 18, where they will be directed to the meeting location.

The NASA Research and Technology Advisory Council, Committee on Space Vehicles, serves in an advisory capacity only. In this capacity, the Committee's principal function is the overall consideration and assessment of those technologies applicable to space vehicles—both launch and spacecraft—with emphasis on their integration into the total space vehicle system. In this context, the purview of the Committee encompasses some areas of technology considered in programmatic detail by other Research and Technology Advisory Council Committees. Among the technological areas of concern to the Committee are launch vehicle and spacecraft aerothermodynamics; structures, materials and dynamics; propulsion and power; space environmental effects, their control and alleviation; electrical and electronic systems; and environmental control, life support, and protection systems. Also of concern to the Committee are those aspects of operations that affect integration of or interfaces among the launch vehicle, spacecraft, equipment, and experiments during all phases of mission performance from launch to completion.

The current Chairman is Dr. Ronald Smelt. There are 14 members. The following list sets forth the approved agenda and schedule for the December 15, 1972, meeting of the Space Vehicles Committee. For further information please contact Mr. William C. Hayes, Jr., area code 202—755-2243.

Time	*Topic*
8:30 a.m.	Chairman and Executive Secretary's Reports. (Results of the last RTAC meeting will be reviewed and changes in NASA Committee operations and Committee membership will be detailed.)
9 a.m.	*DISCOS* (Purpose: The principle, design features, and on-orbit operations of DISCOS (*Dis*turbance *C*ompensation *S*ystem) will be discussed. The Committee will evaluate the system's potential applicability to experiments carried by the space shuttle and sortie module.)
9:45 a.m.	*Payload Cost Reduction* (Purpose: Potential savings that can be brought about by the use of common hardware, with the assumption that only significant step-change improvements will ordinarily be permitted by space system and experiment designers, will be reviewed. The Committee will make recommendations on followon activity in the Space Cost Evaluation Program.)
11 a.m.	*ASSESS* (Purpose: The Airborne Science Shuttle Experiments Systems Simulation (ASSESS) Program will be reviewed. The Committee will make recommendations concerning the utility of the ASSESS concept in the development of management procedures for onboard experimentation using the space shuttle and sortie modules.)
1:30 p.m.	*Executive Session* (Purpose: Recommendations of the SPART (*Space Research and Technology*) study will be evaluated, with particular reference to their programmatic impact, including future funding implications, on Committee areas of cognizance in addition to their implications relative to thrusts in space for the 1980's. Committee recommendations on implementation of SPART study outputs will be made. Final committee action and recommendations on agenda items previously listed will be made. Committee, industry and university members reports and their relationship to current NASA effort will be discussed and any related Committee recommendations formulated.) (Closed session to discuss funding, programmatic detail, and classified data.)

HOMER E. NEWELL, *Associate Administrator, National Aeronautics and Space Administration.*

DECEMBER 1, 1972.

[FR Doc.72-20990 Filed 12-6-72;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-72-3]

DOLE CO. ET AL.

Notice of Applications for Variances and Grants of Interim Orders

I. *Dole Co. and Del Monte Corp.*—(a) *Notice of applications.* Notice is hereby given that Dole Co., Box 3380, Honolulu, Hawaii 96801, and Del Monte Corp., Box 149, Honolulu, Hawaii 96801, have made applications pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for variances, and for interim orders pending a decision on the applications for variances, from the longshoring safety and health standard prescribed in 29 CFR 1918.85 (a) and (b) concerning the marking and weighing of containerized cargo.

The addresses of the places of employment that will be affected by the application are as follows:

Dole Co., Ports of Kaunakakai, Molokai; Kaumalapau, Lanai; and Piers 35 and 36, Honolulu, Oahu, Hawaii.

Del Monte Corp., Ports of Kaunakakai, Molokai, and Pier 35, Nimitz Highway, Honolulu, Oahu, Hawaii.

Applicants certify that employees who would be affected by the variances have been notified of the applications by posting copies of the applications on their bulletin boards in each port. The notice informs employees of their right to petition for a hearing.

Regarding the merits of the applications, the applicants state that the containers or bins in question are designed to carry only one commodity, fresh pineapple. Some of the containers have a maximum load limit of 14,000 pounds, and the others have a maximum load limit of 8,000 pounds when full to a level top with pineapples. Random weight checks of fully loaded bins taken from official logs indicate that it is impossible to exceed the maximum gross weight with fresh pineapples. The tops of the bins are completely open and there are side openings on each bin to permit instant visual inspection whereby it may be readily ascertained whether or not the bin is empty or full. The side openings also allow water or other liquids which might accumulate in the containers to escape.

The bins never leave the control of the employers, and they are never engaged in foreign commerce or cross trade. Once a bin is loaded, the load remains relatively fixed and stable, and it is not subject to change or consolidation between the field and the cannery.

The applicants state that because the bins are only used for carrying fresh pineapples, they are not subject to unexpected use or strain, nor would repetitious weighing result in any new data. Applicants also state that the bins are inspected at least annually and receive any necessary maintenance repairs. They are used solely in a captive, in-house, non-common carrier operation.

The applicants also state that due to the singular use of the bins, the approximate weight of the loaded bins is known without weighing each one. Scaling each bin would require a completely redesigned system of fruit handling without gaining any additional margin of safety. Applicants state that in view of the foregoing, the conditions, means, and methods which they are presently using provide employments and places of employment which are as safe and healthful as those which would prevail if they were to comply with the requirements of 29 CFR 1918.85 (a) and (b).

(b) *Interim orders.* It appears from the applications for variances and interim orders, filed by Dole Co. and Del Monte Corp., that the conditions, practices, means, and methods being used will provide employments and places of employment which are as safe and healthful as those which would prevail if the companies were to comply with the requirements of 29 CFR 1918.85 (a) and (b). It further appears from the applications that interim variances are necessary to prevent unnecessary restrictions on the operations of the applicants. Therefore,

It is ordered, Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, as amended, 33 U.S.C. 941) 29 CFR Part 1920, and 29 CFR 1905.11(c), that Dole Co. and Del Monte Corp. be, and they are hereby, authorized to conduct their work performed at the ports listed above in accordance with the following conditions, in lieu of the requirements of 29 CFR 1918.85 (a) and (b):

1. No container or bin shall ever be overloaded.

2. The containers or bins must be used for carrying only fresh pineapples.

3. Each container or bin must be inspected at least once a year and maintained in such condition that it could carry the maximum cargo weight that it was originally designed by its manufacturer to carry.

4. These interim orders apply only to the use of the following containers or bins: The bins used in connection with the Lanai operations must measure 16 feet 3½ inches long by 7 feet 6 inches wide by 4 feet 8⅜ inches high, with four horizontal openings of 1 to 4 inches spaced approximately 1 foot apart on the sides of the bin. Their maximum load capacity must be 14,000 pounds when full to level. The bins used in the Molokai operations must measure 16 feet long, by 7 feet 6 inches wide by 3 feet high, with three horizontal openings of 1 inch to 4 inches spaced approximately 1 foot apart on the sides and ends of the bin. Their maximum load capacity must be 8,000 pounds when full to level.

5. Loaded containers or bins subject to these interim orders must be hoisted or otherwise handled on the assumption that they carry their respective maximum capacity loads.

6. Dole Co. and Del Monte Corp. shall give notice to affected employees of the terms of these interim orders by the same means required to be used to inform them of the application for the variance.

A copy of the applications will be made available for inspection and copying upon request at the following regional and area offices: U.S. Department of Labor, Occupational Safety and Health Administration, 9470 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, CA 94102, and Occupational Safety and Health Administration, 333 Queen Street, Suite 505, Honolulu, HI 96813.

II. *Churchill Truck Lines, Inc.*—(a) *Notice of application.* Notice is hereby given that Churchill Truck Lines, Inc., 3110 Nicholson Street, Kansas City, MO 64120, has made application pursuant to section 6(d) of the William-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the standard prescribed in 29 CFR 1910.24(i) concerning vertical clearance above any stair tread.

The applicant states that the address of the facility directly affected by the application is: Churchill Truck Lines, Inc., 3110 Nicholson Street, Kansas City, MO 64120.

The applicant certifies that a copy of the application has been prominently posted for all employees who would be affected by the variance, and a copy of the application has been sent to Lewis Bennett and Charlene George, Teamsters Local 41, Stewards, representing Churchill Truck Lines, Inc., employees.

Regarding the merits of the application, the applicant states that the stairway for which the variance is sought provides access to the basement of the facility, containing the lunchroom and part of the restroom facilities. The existing stairway has a minimum vertical clearance of approximately 6 feet 3 inches. Section 1910.24(i) requires a vertical clearance above any stair tread to be at least 7 feet measured from the leading edge of the tread. The applicant states that the city code precludes the modification of the present stairway to the maximum rise and minimum tread run prescribed in Table D-1 referred to in 29 CFR 1910.24(e). Therefore, in order to gain sufficient distance for a stairway and landing, it would be necessary to cut a doorway through 18 inches of concrete in an exterior wall and cut through a concrete floor inside the building and outside from the loading dock area. Furthermore, an exterior wall must then be provided to enclose the entry. The applicant also notes that a new terminal, which meets requirements of the Occupational Safety and Health Act, is to be constructed, starting in 1972.

The applicant states that the present stairway to the basement area is seldom used by the employees because a major-

ity of the employees prefer to lunch off the premises. However, the applicant proposes to pad the header and install a caution sign to protect and warn employees, in accordance with §§ 1910.144(a)(3) and 1910.145(c)(2).

(b) *Interim order.* It appears from the application for a variance and interim order filed by Churchill Truck Lines, Inc., that the present stairway, together with the warning signs and padding, would provide a place of employment as safe and healthful as that which would prevail if the company were to comply with the requirements of 29 CFR 1910.24(i). It further appears from the application that an interim variance is necessary in order to prevent unnecessary hardships to the applicant and to protect and warn the employees using the present stairway. Therefore,

It is ordered, Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and 29 CFR 1905.11(c), that Churchill Truck Lines, Inc. be, and it is hereby, authorized to use the present stairway in accordance with the following conditions, in lieu of the requirements of 29 CFR 1910.24(i):

1. Any overhead obstruction on the stairway, which is not at least 7 feet from the leading edge of the stair tread directly below it, must be padded.

2. Caution signs, which indicate the overhead danger, must be marked and conspicuously placed in accordance with §§ 1910.144(a)(3) and 1910.145(c)(2) of Title 29, Code of Federal Regulations.

3. Churchill Truck Lines, Inc. shall give notice to affected employees of the terms of this interim order by the same means required to be used to inform them of the application for the variance.

A copy of the application will be made available for inspection and copying upon request at the following regional and area offices: U.S. Department of Labor, Occupational Safety and Health Administration, 823 Walnut Street, Waltower Building, Room 300, Kansas City, MO 64106, and Occupational Safety and Health Administration, 1627 Main Street, Room 1100, Kansas City, MO 64108.

III. *Scott Paper Co.*—(a) *Notice of application.* Notice is hereby given that Scott Paper Co., Scott Plaza, Philadelphia, Pa. 19113, has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the standard prescribed in 29 CFR 1918.81(e) concerning the hoisting and slinging of bales of cargo.

The applicant states that the address of the facility directly affected by the application is: Scott Paper Co., Chester Plant, Front and Market Streets, Chester, Pa. 19013.

The applicant certifies that a summary of the application has been posted where notices to the affected dock employees are normally posted, and that a complete copy of the application has been sent to the Manager of Safety and to John Brodie, President, Chester Local 448, International Brotherhood of Pulp, Sulphite, and Paper Mill Workers.

Regarding the merits of the application, the applicant states that the pulp bales are supported by three or four wire straps with one or two of each affixed around the sides of the base making all sides secure. The wire straps intersect on the top and bottom near each corner of the bale. About 80 percent of the baling wire used has a minimum breaking weight of 862 pounds; about 20 percent has a minimum breaking weight of 590 pounds. The weight of a bale is approximately 500 pounds.

Regarding the procedure for unloading the bales, the applicant states that one spreader bar hook is pounded into the bale at an angle until it extends well under the wire strap intersection. The hook is 4 inches to the curve, and at least 3 inches is driven under the crossed straps. Only one hook is used to hoist each bale while § 1918.81(e) requires that two hooks, each in a separate strap, be used. The applicant argues that its procedure provides greater safety than that which would result by following the requirements of the standard and simply slipping the hooks under the wires. The hook used in the unloading of bales was designed by Scott engineers and is manufactured especially for Scott. The hook has a working load limit of 1,690 pounds; the chain used for each hook has a working load limit of 2,450 pounds; and the link has a working load limit of 1,800 pounds.

The applicant also states that any slack in the two wire straps, which the hook catches, is pulled out by the hooker in order to prevent any sudden snap in the wires. When the hooker has completed the hooking operation, he stands clear of the area and then signals the crane operator to lift the bundle enough to take up the slack. The hooker then determines whether there are any weak points or stresses in the bundle and checks each hook. If needed, he will set more than one hook to reduce stress. When the hooker has completed all necessary safety checks, he signals the crane operator from dockside to deposit the bundle at a designated point.

(b) *Interim order.* It appears from the application for a variance and interim order filed by Scott Paper Co., and supporting data, that the practices, means, methods, and operations presently used provide employment and a place of employment which are as safe and healthful as that which would prevail if the company were to comply with the requirements of 29 CFR 1918.81(e). It further appears from the application that an interim variance is required to prevent unnecessary hardships to the applicant. Therefore,

It is ordered, Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, as amended, 33 U.S.C. 941), 29 CFR Part 1920, and 29 CFR 1905.11(c), that Scott Paper Co. be, and it is hereby authorized, to use the present practices, means, methods, and operations for loading and unloading bales at the facility described above, in accordance with the following conditions, in lieu of the requirements of 29 CFR 1918.81(e):

1. All wire straps used for the bales must have a minimum breaking weight of no less than 590 pounds.

2. All persons must stand clear of the path beneath a raised bale.

3. Scott Paper Co. shall give notice to affected employees of the terms of this interim order by the same means required to be used to inform them of the application for the variance.

A copy of the application will be made available for inspection and copying upon request at the following regional and area offices: U.S. Department of Labor, Occupational Safety and Health Administration, Penn Square Building, Room 623, 1317 Filbert Street, Philadelphia, PA 19107, and Occupational Safety and Health Administration, 1317 Filbert Street, Suite 1010, Philadelphia, PA 19107.

IV. *Safeway Stores, Inc.—Notice of application.* Notice is hereby given that Safeway Stores, Inc., Post Office Box 660, Oakland, CA 94604, has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standard prescribed in 29 CFR 1910.178(m)(7) concerning the prevention of movement of trucks, trailers, or railroad cars while loading or unloading.

The applicant states that the address of the facility directly affected by the application is: Safeway Stores, Inc., Denver Division Distribution Center, 4600 East 46th Avenue, Denver, CO 80212.

The applicant certifies that a copy of the application has been sent to: Amalgamated Meat Cutters and Butcher Workmen, Local Union No. 634, Room 316, 360 Acoma Street, Denver, CO 80204; International Brotherhood of Teamsters, Local Unions No. 435 and 452, 2941 West 19th Avenue, Denver, CO 80204; Maintenance Engineers Local Union No. 1, 900 South Kalamath Street, Denver, CO 80223; and International Automobile Machinists, District 86, Local Union No. 606, 360 Acoma Street, Denver, CO 80204. The applicant further certifies that all employees who would be affected by this variance have been notified by posting a copy of the application on every employee bulletin board in the affected workplace, and by other appropriate means.

Regarding the merits of the application, the applicant states that sand shoes, which are metal plates, each having approximately 100 square inches of friction producing area, were installed on the landing gears of all of the applicant's trailers at the above place of employment.

Applicant states that sand shoes, under the conditions prevailing in the place

of employment designated above, are as safe and healthful as wheel blocks or chocks, which are required by § 1910.178(m)(7), in that:

1. Each trailer is equipped with a service parking brake system. This system is designed to keep trailer wheels locked for a minimum period of 24 hours.

2. The time required to load trailers varies from 2 to 5 hours. Loading operations commence almost immediately after a trailer is positioned at the dock, with all of its wheels locked as above indicated.

3. So-called "low lift (walking) moto trucs" are used to load trailers with palletized merchandise, from front to back. These "trucs" weigh between 1600 and 1800 pounds and travel at speeds of about 2 to 4 miles per hour.

4. The two sand shoes on trailer landing gears are positioned about 120 inches from the front of the trailers, and, together, provide at least 200 square inches of friction producing area. As the loading operation continues, since it proceeds from front to back, the coefficient of friction produced by the sand shoes increases.

5. For the most part, dock areas are hard surfaced (concrete or asphalt) and slope toward the dock sufficiently to permit drainage. The effect of gravity would, therefore, tend to move the trailer toward the dock, or hold it there once it is in position. To move the trailer forward, or "up hill" it would be necessary to overcome not only the friction produced by sand shoes, but also the effect of gravity. The applicant states that experience has proved this "forward movement" is extremely unlikely. Equally unlikely, in the present state of the art, is the total failure of the service parking brake system.

6. When trailers are positioned for loading they are connected to the dock with heavy metal (steel) plates. These plates minimize the energy imparted to the trailer during loading operations, and have a tendency to fasten or hold the trailer and dock together.

A copy of the application will be made available for inspection and copying upon request at the following regional and area offices: U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 15010, Post Office Box 3588, 1961 Stout Street, Denver, CO 80202; Occupational Safety and Health Administration, Squire Plaza Building, 8527 West Colfax Avenue, Lakewood, CO 80202.

V. *American Airlines, Inc.*—(a) *Notice of application.* Notice is hereby given that American Airlines, Inc., Maintenance and Engineering Center, Tulsa, Okla. 74151, has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for the variance, from the standards prescribed in §§ 1910.107(g)(7) and 1910.108(f)(4) of Title 29, Code of Federal Regulations, concerning the posting of no smoking signs within spraying, paint storage, and dip tank areas.

The applicant states that the address of the facility directly affected by the application is American Airlines, Inc., Maintenance and Engineering Center, Tulsa, Okla. 74151.

The applicant certifies that a copy of the application has been posted for all employees who would be affected by the variance, and a copy of the application has been sent to the authorized employee representative, Mr. Kenneth Harding, Safety Representative of Local 613 AFL-CIO Transport Workers Union.

Regarding the merits of the application, the applicant states that their present system of designating smoking areas is by the use of 4-inch parallel red and white lines painted on the floors indicating that smoking is permitted on the white side and prohibited on the red side of the lines. The applicant contends that this more clearly defines the safe and the unsafe places to strike a match and smoke than would the posting of a "no smoking" sign. Furthermore, the applicant states that such an addition would weaken its existing plan. The applicant also states that all employees are properly instructed as to this procedure.

(b) *Interim order.* It appears from the application for a variance and interim order filed by American Airlines, Inc. that the practices, means, and methods presently being used to designate no-smoking areas provide employment and a place of employment which are at least as safe and healthful as that which would prevail if the company were to comply with the requirements of §§ 1910.107(g)(7) and 1910.108(f)(4) of Title 29, Code of Federal Regulations. It further appears from the application that an interim variance is required to prevent unnecessary interruptions and confusion in the applicant's operations. Therefore,

It is ordered, Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970 and 29 CFR 1905.11(c), that American Airlines, Inc. be, and it is hereby, authorized to continue to use its present procedure for designating smoking and no-smoking areas at the Maintenance and Engineering Center, Tulsa, Okla., in accordance with the following conditions, in lieu of the requirements of §§ 1910.107(g)(7) and 1910.108(f)(4) of Title 29, Code of Federal Regulations:

1. Any employee who is required to use any of the no-smoking areas must be instructed in the warning procedure before he is permitted in the area.

2. The same warning procedure must be used in all spraying, paint storage, and dip tank areas.

3. American Airlines, Inc. shall give notice to affected employees of the terms of this interim order by the same means required to be used to inform them of the application for a variance.

A copy of the application will be made available for inspection and copying upon request at the following regional and area offices: U.S. Department of Labor, Occupational Safety and Health Administration, Seventh Floor, Texaco Building, 1512 Commerce Street, Dallas, TX 75201, and Occupational Safety and Health Administration, Room 512, Petroleum Building, 420 South Boulder, Tulsa, OK 74103.

VI. *Swanson Boat Oar Factory—Notice of application.* Notice is hereby given that Swanson Boat Oar Factory, Albion, Pa. 16401, has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standard prescribed in 29 CFR 1910.213(c) (1) and (3) concerning hoodguards and nonkickback fingers or dogs on hand-fed ripsaws.

The applicant states that the address of the facility directly affected by the application is Swanson Boat Oar Factory, 58 Bradish Avenue, Albion, PA 16401.

The applicant certifies that a copy of the application has been prominently posted where notices are normally posted for all employees who would be affected by the variance, and a copy of the application has been sent to an authorized employee representative.

Regarding the merits of the application, the applicant states that it has taken the following steps to adequately afford protection to its employees:

1. There is an overhead guard mounted slightly above the saws to deflect sawdust. This guard is made of wood and leather. It will not shatter when broken, and it is nonexplosive.

2. The saws are equipped with a spreader as required by § 1910.213(c)(2) to prevent material from squeezing the saw or being thrown back on the operator.

3. The saws are mounted on one large table measuring 5 feet 1 inch by 6 feet 6 inches, in order to keep any operator as far away from the saw blades as possible.

4. Every employee who operates the saws is thoroughly trained in their operation.

The applicant also states that the operations performed on these saws require that the material be hand fed due to the fact that it must be cut part way and then pulled back out. At times it is also necessary to raise the material over the top of the saw after it has been ripped part way.

The applicant states that due to the unusual operations performed on these saws, such permanent relief is necessary for him to carry out the operations needed to manufacture his product.

A copy of the application will be made available for inspection and copying upon request at the following regional and area offices: U.S. Department of Labor, Occupational Safety and Health Administration, Penn Square Building, Room 623, 1317 Filbert Street, Philadelphia, PA 19107, and Occupational Safety and Health Administration, Room 445 D, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Copies of any of the above applications will also be made available for inspection and copying upon request at the Office of Standards, U.S. Department of

Labor, Railway Labor Building, Room 500, 400 First Street NW., Washington, DC 20210.

All interested persons, including employers and employees who believe they will be affected by the grant or denial of any of the above applications for variances, are invited to submit written data, views, and arguments regarding the relative application within 30 days following the publication of this notice in the FEDERAL REGISTER. In addition, employers and employees who believe they would be affected by the grant or denial of any of the variances may request a hearing on the relative application for variance within 30 days after the publication of this notice in the FEDERAL REGISTER, in conformity with the requirements of 29 CFR 1905.15. Submissions of written comments and requests for a hearing should be in quadruplicate and shall be addressed to the Office of Standards, U.S. Department of Labor, Railway Labor Building, Room 500, 400 First Street NW., Washington, DC 20210.

Effective date. The above interim orders shall be effective as of December 7, 1972 and shall remain in effect until decisions are rendered on the respective applications for variances.

Signed at Washington, D.C., this first day of December 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-21048 Filed 12-6-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice 131]

ASSIGNMENT OF HEARINGS

DECEMBER 4, 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. No amendments will be entertained after the date of this publication.

MC-C-7808, Stephen J. McMahon, doing business as McMahon Tour Agency v. Travel Center of Waterbury, Inc., et al, now assigned January 16, 1973, at Hartford, Conn. is postponed to February 21, 1973, at Hartford, Conn., in Room 565 A, Public Utilities Commission, 165 Capitol Avenue.

MC 60430 Sub 20, Friedman's Express, Inc., now assigned February 5, 1973, at New York, N.Y., hearing is cancelled and transferred to modified procedure.

MC-134477 Sub 24, Schanno Transportation, Inc., now being assigned hearing February 5, 1973 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC-F-11530, John R. Remis, Bernard Sacharoff, John Roncoroni, Louis Geik, Henry Bono, Nicholas Accardi, New Deal Delivery Service, Inc., Eastern Transportation Co., Inc., and Airfreight Transportation Corp. of New Jersey Investigation of Control, and MC-FC-71876, Resil Trucking Corp., Transferee and Eastern Transportation Co., Inc., Transferor, now assigned December 13, 1972, at New York, N.Y., is postponed indefinitely.

MC-115841 Sub 411, Colonial Refrigerated Transportation, Inc., now assigned January 15, 1973, at Chicago, Ill., is cancelled and application dismissed.

MC 123048 Subs 216 and 218, Diamond Transportation System, Inc., now being assigned continued hearing January 10, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-108884 Sub 21, Rogers Transfer, Inc., now being assigned hearing February 7, 1973 (3 days), at New York, N.Y., in a hearing room to be later designated.

MC 44605 Sub 39, Milne Truck Lines, Inc., now assigned January 8, 1973, at San Francisco, Calif., hearing will be held at the Holiday Inn, 750 Kearny Street.

MC 20783 Sub 85, Tompkins Motor Lines, Inc., now being assigned hearing February 5, 1973 (2 days), at Birmingham, Ala., in a hearing room to be later designated.

MC 29910 Sub 119, Arkansas-Best Freight System, Inc., now being assigned hearing February 15, 1973 (1 day), at New Orleans, La., in a hearing room to be later designated.

MC116544 Sub 129, Wilson Brothers Truck Line, Inc., now being assigned hearing February 16, 1973, at New Orleans, La., in a hearing room to be later designated.

I&S-M-25952, Household Goods, Increased Rates Nationwide, now being assigned continued hearing December 11, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 115840 Sub 73, Colonial Fast Freight Lines, Inc., now being assigned hearings February 7, 1973 (3 days), at Birmingham, Ala., and February 12, 1973 (3 days), at New Orleans, La., in hearing rooms to be later designated.

MC 124692 Sub 95, Sammons Trucking, now being assigned hearing January 22, 1973 (3 days), at Portland, Oreg., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21058 Filed 12-6-72;8:51 am]

[Ex Parte 241; Rule 19, 2d Rev. Exemption 22, Amdt. 1]

ATCHISON, TOPEKA, AND SANTA FE RAILWAY CO. ET AL.

Exemption From Mandatory Car Service Rules

Upon further consideration of second revised exemption No. 22 issued October 26, 1972 (published at 37 F.R. 23394, November 2, 1972).

It is ordered, That, under authority vested in me by Car Service Rule 19, second revised exemption No. 22 to the Mandatory Car Service Rules ordered in ex parte No. 241, be, and it is hereby, amended to expire January 15, 1973.

This amendment shall become effective November 30, 1972.

Issued at Washington, D.C., November 29, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-21055 Filed 12-6-72;8:51 am]

[Ex Parte 241; Rule 19, Exemption 26]

SOUTHERN RAILWAY CO.

Exemption From Mandatory Car Service Rules

It appearing, that there is an emergency movement of military impedimenta from Bynum, Ala., to Mobile, Ala., and to Charleston, S.C.; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Southern Railway Co., the railroads designated by the Car Service Division are authorized to move to, and the Southern Railway Co. is authorized to accept, assemble, and load not to exceed 31 empty cars with military impedimenta from Bynum, Ala., to Mobile, Ala., and to Charleston, S.C., regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective November 29, 1972.

Expires December 22, 1972.

Issued at Washington, D.C., November 29, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-21056 Filed 12-6-72;8:51 am]

[Ex Parte 241; Rule 19; Exemption 27]

SOUTHERN RAILWAY CO.

Exemption From Mandatory Car Service Rules

It appearing, that there is an emergency movement of military impedimenta from New Orleans, La., to Bynum, Ala.; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car

Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is so ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement of the Southern Railway Co., the railroads designated by the Car Service Division are authorized to move to, and the Southern Railway Co. is authorized to accept, assemble, and load not to exceed 44 empty cars with military impedimenta from New Orleans, La., to Bynum, Ala., regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective November 29, 1972.

Expires December 22, 1972.

Issued at Washington, D.C., November 29, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-21057 Filed 12-6-72;8:51 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 4, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG- AND SHORT-HAUL

FSA No. 42580—*Carbolic Acid (Phenol) from Freeport, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-367), for and on behalf of the Baltimore and Ohio Railroad Co., and other rail carriers named in the application. Rate on acid, carbolic (phenol), in tank carloads, as described in the application, from Freeport, Tex., to Union Landing Siding, Ohio.

Grounds for relief—Private barge competition.

Tariff—Supplement 241 to Southwestern Freight Bureau, agent, tariff I.C.C. 4834. Rate is published to become effective December 31, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21054 Filed 12-6-72;8:51 am]

[Notice 161]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 30, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 16502 (Sub-No. 15 TA), filed November 14, 1972. Applicant: WM. A. ROBINSON, KENNETH D. ROBINSON, HENRY CLAY ROBINSON, JR., RICHARD RAY ROBINSON, AND FRANK TAYLOR ROBINSON, doing business as ROBINSON TRUCK LINES, Highway 50 W., Post Office Box 737, West Point, MS 39773. Applicant's representative: Donald B. Morrison, Post Office Box 22628, Jackson, MS. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (with usual exceptions) between Shuqualak, Miss., and DeKalb, Miss., serving all intermediate points, from Shuqualak to Preston over Mississippi Highway 21; thence over Mississippi Highway 297 to junction of Mississippi Highway 16; thence over Mississippi Highway 16 to DeKalb, and return over the same route, serving all intermediate points, for 180 days. NOTE: The above authority will be joined with and used in connection with applicant's present authority extending between Memphis, Tenn., on the one hand, and, on the other, various points in Mississippi, and this request for authority will be tacked with applicant's existing authority at both Shuqualak and DeKalb, Miss. Supporting shipper: Slate Springs Glove Co., Post Office Box 4607, Slate Springs, MS 38955. Send protests to: Alan C. Tarrant, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 212, 145 Amite Building, Jackson, Miss. 39201.

No. MC 107295 (Sub-No. 633 TA), filed November 14, 1972. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Particle board,* from Chesapeake, Va., to points in Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland Massachusetts, Minnesota, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Gordon T. Adams, Group Traffic Manager, Evans Products Co., 201 Dexter Street West, Chesapeake, VA 23324. Send Protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 108461 (Sub-No. 118 TA), filed November 9, 1972. Applicant: WHITFIELD TRANSPORTATION, INC., 300-316 North Clark Road, Post Office Box 9897, 79989, El Paso, TX 79946. Applicant's representative: J. P. Rose (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), (1) serving Clovis, N. Mex., as an intermediate point in connection with carrier's presently authorized routes in MC-108461 (Sub-No. 99); and (2) serving Magdalena, N. Mex., as an off-route point in connection with carrier's present route as authorized in lead Docket MC-108461, between Albuquerque, N. Mex., and El Paso, Tex., from Socorro, N. Mex., over U.S. Highway 60 to Magdalena, N. Mex., and return over the same route, for 180 days. Supported by: There are approximately 59 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 128944 (Sub-No. 13 TA), filed November 9, 1972. Applicant: RELIABLE TRUCK LINES, INC., 402 Maplewood Avenue, Nashville, TN 37210. Applicant's representative: James Clarence Evans, 18th Floor, Third National Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, dangerous explosives and commodities requiring special equipment), (1) between Atlanta, Ga., and Tupelo, Miss., over the following routes: From Atlanta, over Interstate Highway 20 to Birmingham, Ala., thence over U.S. Highway 78 to Tupelo and return over the same route (using U.S. Highway 78 as needed until Interstate Highway 20 is completed), serving (a) all points within a 15-mile radius of Atlanta as off-route points, or in the alternative, serving an area within

[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.

approximately 15 miles of Atlanta, as off-route points, to wit: All points lying on and within the area embraced by a line beginning at Dallas, Ga., and the junction of Georgia Highway 92 spur and U.S. Highway 278 thence over Georgia Highway 92 spur and Georgia Highway 92 in a southerly direction to junction Georgia Highway 54 at or near Fayetteville, Ga., thence over Georgia Highway 54 to junction Georgia Highway 138 at or near Jonesboro, Ga., thence over Georgia Highway 138 to junction Georgia Highway 81 at or near Walnut Grove, Ga., thence over Georgia Highway 81 to junction Georgia Highway 20 near Loganville, Ga., thence over Georgia Highway 120 to Alpharetta, Ga., thence over unnumbered highway westerly to junction Georgia Highway 92 near Mountain Part, Ga., thence over Georgia Highway 92 to junction Georgia Highway 92 spur at or near New Hope, Ga., thence over Georgia Highway 92 spur to the point of beginning, restricted against the transportation of traffic between Atlanta, on the one hand, and, on the other, the off-route points about Atlanta named herein, which is either originated, terminated or interlined at Atlanta; (b) all points in the following Mississippi counties as off-route points: Alcorn, Chickasaw, Choctaw, Clay, Itawamba, Lowndes, Noxubee, Monroe, Oktibbeha, Pontotoc, Prentiss, Tishomingo, Union, Webster, and Winston; restricted at all intermediate points between Atlanta and Birmingham (but not Birmingham) and restricted against handling at Atlanta any traffic originating at, or destined to, or to be interchanged at Birmingham; and further restricted to all intermediate points between Birmingham and the Mississippi State line except serving Guin, Ala., for purposes of joinder only.

(2) Between Guin, Ala., and Tupelo, Miss., over the following described route: From Guin over U.S. Highway 278 to its intersection with U.S. Highway 45A thence over U.S. Highway 45A to Tupelo, and return over the same route serving Guin for joinder only and with no service at any other intermediate point in Alabama; (3) between Birmingham, Ala., and all points within 15 miles thereof, and Tupelo, Miss., over the following described route: From Birmingham over Interstate Highway 20 to Tuscaloosa, Ala., thence over U.S. Highway 82 to Columbus, Miss., thence over U.S. Highway 45 to Tupelo and return over the same route, serving no intermediate points in Alabama, but serving all points in the following Mississippi counties as off-route points: Alcorn, Chickasaw, Choctaw, Clay, Itawamba, Lowndes, Noxubee, Monroe, Oktibbeha, Pontotoc, Prentiss, Tishomingo, Union, Webster, and Winston; and (4) between Tuscumbia, Ala., and Tupelo, Miss., over the following described route: From Tuscumbia over U.S. Highway 72 to intersection Alabama Highway 247, thence over Alabama Highway 247 to intersection Alabama Highway 24, thence over Alabama Highway 24 to Red Bay, Ala., thence over Mississippi Highway 23 to U.S. Highway 78 at Tremont, Miss., thence over U.S. Highway 78 to Tupelo and return over the same route, restricted against service at all intermediate points in Alabama, for 180 days. NOTE: Applicant seeks authority to use above routes and authority by tacking or joinder with each other, and also with all authority of the applicant, and also to interchange with other carriers at all service points. Supported by: There are approximately 121 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803–1808 West End Building, Nashville, Tenn. 37203.

No. MC 134282 (Sub-No. 9 TA), filed November 10, 1972. Applicant: ENNIS TRANSPORTATION CO., INC., Post Office Box 447, 106 Knight Hurst, Ennis, TX 75119. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, fibreboard, particle board, and other gypsum products* (except in bulk) *and joint system compounds, building tape, and other materials* used in the installation of the foregoing commodities when moving incidental to the foregoing commodities, from the plantsite of Temple Gypsum, Inc., at West Memphis, Ark., to points in Alabama, Florida, Georgia, Indiana, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, and Texas, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Temple Gypsum, Inc., A Subsidiary of Temple Industries, Post Office Box 1270, West Memphis, AR 72301. Send protests to: District Supervisor E. K. Willis, Jr., Bureau of Operations, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 134967 (Sub-No. 2 TA), filed November 15, 1972. Applicant: CHARLES B. McGEE, doing business as McGEE TRUCKING, 566 North Lombard Street, Portland, OR 97217. Applicant's representative: Charles B. McGee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Knocked down pole buildings and materials, equipment, and supplies* pertaining to the construction of pole buildings, destined to or from construction sites, from Portland, Estacada, Carver, Boring, and Hillsboro, Oreg., and Ridgefield, Wash., to points in Oregon, Washington, Idaho, Utah, Wyoming, Montana, and California, *and returned or refused, damaged or excess materials* to Portland, Oreg., for 180 days. Supporting shipper: C. A. Connors Construction Co., Post Office Box 13125, Portland, OR 97213. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 138164 TA, filed November 1, 1972. Applicant: D. I. LAW AND L. D. LANGFORD, a partnership, doing business as LAW AND LANGFORD ENGINEERING, Cote Saint Charles Road, Post Office Box 145, Dorion, PQ Canada. Applicant's representative: J. P. Vermette, 250 Napoleon-Provost Street, Repentigny, PQ Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sailboats and ancillary equipment*, using specialized equipment (extra-low-bed trailers or trucks with specially designed racks), from the International Boundary line between the United States and Canada in Michigan, New York, Vermont, New Hampshire, Maine, New Jersey, Connecticut, Massachusetts, Rhode Island, Pennsylvania, Maryland, Virginia, District of Columbia, North Carolina, Ohio, Indiana, and Kentucky, restricted to foreign commerce traffic originating in the Province of Quebec, Canada, for 180 days. Supporting shipper: Tanzer Industries, Ltd., Post Office Box 105, Dorion Montreal, PQ Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 138173 TA, filed November 8, 1972. Applicant: BOINEAU'S, INC., 2822 Commerce Drive, Columbia, SC 29205. Applicant's representative: Charles E. Boineau (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material, and supplies, including tools* used in the construction and maintenance of telephone systems and communication, between Columbia, S.C., and points in the Counties of Aiken, Allendale, Bamberg, Barnwell, Calhoun, Chester, Edgefield, Fairfield, Kershaw, Lexington, McCormick, Newberry, Orangeburg, Richland, and Saluda, for 180 days. Supporting shipper: Western Electric, 6701 Roswell Road NE., Atlanta, GA 30328. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 138175 TA, filed November 10, 1972. Applicant: JOSEPH E. MCCARTNEY, 185 Commercial Street, Portland, ME 04111. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, ME 04038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Frozen fruits, frozen berries, and frozen vegetables*, from the ports of entry on the International Boundary line between the United States and Canada, located at or near Houlton and Calais, Maine to Portland, Maine, Laconia, N.H., Boston, Mass., Hartford, Conn., Providence, R.I., and Scranton and Pottstown, Pa.; and (b) *corrugated containers, and plastic and metal pails, tubs, cans, and*

cartons used for the packaging of frozen foods, from Pottstown, Pa., Putnam, Conn., Somerville, Mass., and Portland, Maine, to the port of entry on the International Boundary line between the United States and Canada located at or near Houlton and Calais, Maine, for 180 days. Supporting shipper: Christy Crops, Ltd., Parrsboro, Nova Scotia, Canada (packing plant), Hanscom Air Terminal, Bedford, Mass. 01730 (U.S.A. Office). Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 167 PSS, Room 307, 76 Pearl Street, Portland, ME 04111.

No. MC 138176 TA, filed, November 13, 1972. Applicant: MARVIN RENTZ, doing business as RENTZ FARM SUPPLY, Route 1, Brinson, Ga. 31725. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, dry, from (1) Americus and Tifton, Ga., to Hartford, Ala., to points in Leon, Gadsden, Jefferson, and Taylor Counties, Fla., and (2) from Bainbridge, Ga., to points in Baker, Union, Columbia, Suwannee, Hamilton, Lafayette, Madison, Taylor, Jefferson, Leon, Wakulla, Gadsden, Liberty, Calhoun, Jackson, Franklin, Gulf, Bay, Washington, Holmes, Walton, Okaloosa, Santa Rosa, and Escambia Counties, Fla., for 180 days. Supporting shippers: Kaiser Agricultural Chemicals, Division of Kaiser Aluminum & Chemical Sales, Inc., Post Office Box 1228, Albany, GA 31702; International Minerals & Chemical Corp. Post Office Box 607, Americus, GA 31709. Send protests to: District Supervisor G. H. Faus, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-21052 Filed 12-6-72;8:51 am]

[Notice 162]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 1, 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 86913 (Sub-No. 36 TA), filed November 15, 1972. Applicant: EASTERN MOTOR LINES, INC., Post Office Box 649, Office: U.S. No. 401 North, Warrenton, N.C. 27589. Applicant's representative: C. M. Bullock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, plain or finished, from Whiteville, N.C., to points in North Dakota, South Dakota, Nebraska, Colorado, and New Mexico and all States east thereof and the District of Columbia, for 180 days. Supporting shipper: Georgia-Pacific Corp., Southern Division, Post Office Box 909, Augusta, GA 30903. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 26896, Raleigh, NC 27611.

No. MC 87532 (Sub-No. 6 TA), filed November 15, 1972. Applicant: CLAY PRODUCTS TRANSPORT, INC., Box 429, Route 2, Dover, OH 44622. Applicant's representative: James M. Burtch, 110 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory sleeves and nozzles*, from Carrollton, Ohio, to Pittsburgh and Aliquippa, Pa., Chicago, Ill., Gary, Ind., and Detroit, Mich., for 180 days. Supporting shipper: Drexel Refractories, Inc., Post Office Box 7, Carrollton, OH 44615. 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 108449 (Sub-No. 347 TA), filed November 14, 1972. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: V. L. Wellbaum, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aviation gas*, in bulk, in tank vehicles, from Winona, Minn., to points in Wisconsin, North Dakota, South Dakota, and Iowa, for 180 days. Supporting shipper: American Oil Co., Chicago, Ill. Send protests to: District Supervisor Raymond T. Jones, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 109172 (Sub-No. 9 TA) filed, November 14, 1972. Applicant: NATIONAL TRANSFER, INC., doing business as NATIONAL MOTOR FREIGHT, 4100 East Marginal Way, Seattle, WA 98134. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *General commodities*, in cargo vans and containers only, and *empty* cargo vans and containers, (a) between points in King, Pierce, Lewis, Clark, and Cowlitz Counties, Wash., and (b) between points in King, Pierce, Lewis, Clark, and Cowlitz Counties, Wash., on the one hand, and points in Multnomah, Clackamas, Yamhill, Washington, and Marion Counties, Oreg., on the other hand. Limited to traffic having an immediate prior or subsequent movement by water, for 180 days. Supporting shippers: (1) American Mail Line, 1010 Washington Building, Seattle, Wash. 98101; (2) Geo. S. Bush & Co., Inc., 259 Colman Building, Seattle, Wash. 98104; (3) Cahen Trading Co., Inc., Post Office Box 17006, Portland, OR 97217; (4) Consolidated Fibers, 8300 North Montana Avenue, Foot of Columbia, Portland, OR 97217; (5) Dowling's Wholesale Antiques, Post Office Box 179, Chehalis, WA 98532; (6) Independent Paper Stock Co., 1315 Northwest Overton, Portland, Oreg. 97209; (7) Northwest Paper Fibers, 2625 Northwest Industrial Street, Portland, OR 97210; (8) J. T. Steeb & Co., Inc., 415 Oregon Pioneer Building, Portland, Oreg. 97204 and (9) Williams, Dimond & Co., 1515 Pacific Building, 720 Third Avenue, Seattle, WA 98104. Send protests to: L. D. Boone, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 114569 (Sub-No. 104 TA), filed November 7, 1972. Applicant: SHAFFER TRUCKING, INC., Post Office Box 418, New Kingstown, PA 17072. Applicant's representative: S. Berne Smith, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and commodities* dealt in by retail gift shops or retail curio shops, when moving in mixed loads with cheese, from Monroe, Wis., to Bloomington, Elkhart, Evansville, Fort Wayne, Greenwood, and Muncie, Ind., and Detroit, Pontiac, and Lansing, Mich., for 180 days. Supporting shipper: Swiss Colony Stores, Inc., 1112 Seventh Avenue, Monroe, WI 53566. Send protests to: Robert W. Ritenour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 117384 (Sub-No. 3 TA), filed November 8, 1972. Applicant: PAUL E. DAVIDSON, MAHLON E. DAVIDSON, AND HAROLD DAVIDSON, Jr., doing business as, DAVIDSON BROTHERS, Rural Delivery No. 3, Bellefonte, PA 16823. Applicant's representative: Rob-

[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.

ert M. Sielaty, 1819 H Street NW., Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Snow Shoe Township, Pa., to Bainbridge and Binghamton, N.Y., for 180 days. Supporting shipper: Johnson & Morgan, Snow Shoe, Pa. 16874. Send protests to: Robert W. Ritenour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 119656 (Sub- No. 10 TA), filed November 15, 1972. Applicant: NORTH EXPRESS, INC., 219 East Main Street, Winamac, IN 46996. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dismantled railroad cars and equipment*, between Logansport, Ind., and Chicago, Ill., for 180 days. Supporting shipper: SPC Industries, Penn Central Yard C, U.S. Highway 24, West, Logansport, Ind. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46801.

No. MC 119789 (Sub-No. 130 TA), filed November 7, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, 1612 Irving Boulevard, Dallas, TX 75222. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Emporia, Kans., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the plantsite of Iowa Beef Processors, Inc., at or near Emporia, Kans., for 180 days. NOTE: Applicant does not intend to tack authority. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 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 119880 (Sub-No. 54 TA), filed November 10, 1972. Applicant: DRUM TRANSPORT, INC., Office: 617 Chicago Street, Box 2056, East Peoria, IL 61611. Applicant's representative: B. N. Drum (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Detroit, Mich., to Scobeyville, N.J., for 180 days. Supporting shipper: D. J. Anderson, General Traffic Manager, Hiram Walker and Sons, Inc., Peoria, Ill. 61601. Send protests to: District Supervisor Shullaw, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirkson Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 124078 (Sub-No. 533 TA), filed filed November 10, 1972. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral filler*, in bulk, in tank vehicles, from Hodgkins, Ill., to Warren, Mich., for 180 days. Supporting shipper: Vulcan Materials Co., Post Office Box 6, 500 West Plainfield Road, Countryside, IL 60525 (Alex A. Barry, Vice President, Sales). Send protests to: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 133867 (Sub-No. 5 TA), filed November 13, 1972. Applicant: STARLING TRANSPORT LINES, INC., 3501 South Federal Highway, Fort Pierce, FL 33450. Applicant's representative: John P. Bond, 30 Giralda Avenue, Coral Gables, FL 33134. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Highland, N.Y., and Weathersfield, Conn., to points in all the 48 States in the continental United States, for 180 days. Supporting shipper: Foodways, Inc., Weathersfield, Conn. 06109. Send protests to: District Supervisor Joseph B. Teichert, Bureau of Operations, Interstate Commerce Commission, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-21053 Filed 12-6-72;8:51 am]

[Notice 99]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 1, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 2229 (Sub-No. 172), filed October 13, 1972. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Post Office Box 47407, Dallas, TX 75247. Applicant's representative: Martin B. Turner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious or con-

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

taminating to other ladings), serving the plantsite and warehouse facilities of Pulvair Corp., located on U.S. Highway 51, approximately 7 miles north of Memphis, Tenn., as an off-route point in connection with carrier's regular route operations at Memphis, Tenn., from Memphis over U.S. Highway 51 to the plantsite and warehouse facilities of Pulvair Corp. and return over the same route serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Dallas, Tex.

No. MC 2484 (Sub-No. 48), filed October 20, 1972. Applicant: E. & L. TRANSPORT COMPANY, a corporation, 14201 Prospect Avenue, Dearborn, MI 48126. Applicant's representative: Eugene C. Ewald, Suite 1700, One Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *tractor parts and attachments thereof*, from Romeo, Mich., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maryland, Minnesota, Mississippi, Nebraska, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, restricted to the transportation of shipments originating at the plantsite of Ford Motor Co. at Romeo, Mich., and destined to the named destination points above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 13123 (Sub-No. 68), filed October 30, 1972. Applicant: WILSON FREIGHT COMPANY, a corporation, 3636 Follett Avenue, Cincinnati, OH 45223. Applicant's representative: Milton H. Bortz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Commercial Shearing, Inc., at or near Hicksville, Ohio, as an off-route point in connection with carrier's authorized regular route operations, serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 17227 (Sub-No. 12), filed November 3, 1972. Applicant: LINDNER BROS. TRUCKING, INC., 2115 South First Street, Milwaukee, WI 53207. Applicant's representative: Michael J. Wyngaard, 125 West Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soap, soap products, lard substitutes, vegetable oil shortening, advertising matter, and commodities awarded as premiums*, from Milwaukee Wis., to points in Adams, Brown, Calumet, Door, Fond du Lac, Green Lake, Jackson, Juneau, Kewaunee, La Crosse, Manitowoc, Marquette, Monroe, Oconto, Outagamie, Portage, Shawano, Sheboygan, Vernon, Waupaca, Waushara, Wood, and Winnebago Counties, Wis.; (2) *groceries* and in connection therewith, *premiums and advertising materials*, from Milwaukee, Wis., to points in Milwaukee, Rock, Racine, Kenosha, Waukesha, Jefferson, Dane, Dodge, Green, Walworth, Columbia, Iowa, Lafayette, Ozaukee, Richland, Sauk, Washington, Crawford, Grant, Adams, Brown, Calumet, Door, Fond du Lac, Green Lake, Jackson, Juneau, Kewaunee, La Crosse, Manitowac, Marquette, Monroe, Oconto, Outagamie, Portage, Shawano, Sheboygan, Vernon, Waupaca, Waushara, Wood, and Winnebago Counties, Wis.; and (3) *damaged or defective shipments of the above-described commodities*, from the above-specified destination points to Milwaukee, Wis., under a continuing contract, or contracts, with Procter & Gamble Co. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 22195 (Sub-No. 147), filed October 18, 1972. Applicant: DAN DUGAN TRANSPORT COMPANY, a corporation, 41st and Grange Avenue, Sioux Falls, SD 57105. Applicant's representative: J. P. Everist (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement* (a) from Minnehaha County, S. S. Dak., to points in Minnesota, Nebraska, and Iowa, and (b) from Codington County, S. Dak., to points in Minnesota and North Dakota; and (2) *asphalt, road oils, and residual fuel oils*, in bulk, in tank vehicles, (a) between points in North Dakota, (b) between points in South Dakota, (c) between points in North Dakota and South Dakota on shipments having a prior movement by rail, and (d) from Woodbury County, Iowa, to points in Nebraska, Minnesota, North Dakota, South Dakota, and Iowa. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Des Moines, Iowa.

No. MC 35334 (Sub-No. 72), filed October 30, 1972. Applicant: COOPER–JARRETT, INC., 23 South Essex Avenue, Orange, NJ 07051. Applicant's representative: Irving Klein, 280 Broadway, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between the junction of Interstate Highway 80 and U.S. Highway 220 at or near Milesburg, Pa., on the one hand, and, on the other, the junction of U.S. Highway 220 and U.S. Highway 22 at or near Holidaysburg, Pa., as an alternate route for operating convenience only, from the junction of Interstate Highway 80 and U.S. Highway 220 at or near Milesburg, Pa., thence over U.S. Highway 220 to the junction of U.S. Highway 220 and U.S. Highway 22 at or near Holidaysburg, Pa., and return over the same route, serving the terminii points abovt described for purposes of joinder only, and (b) serving points in Dutchess, Orange, Rockland, Sullivan, Ulster, and Westchester Counties, N.Y. as intermediate and off-route points in conjunction with applicant's presently authorized regular routes between Wallingford, Conn., and the junction of Interstate Highways 79 and 80 at or near Mercer, Pa. NOTE: Applicant states that it presently holds authority to serve the aforementioned counties in connection with irregular route authority otherwise held. In providing service between the aforementioned counties on the one hand, and points in western Pennsylvania, Ohio, Kentucky, and Illinois on the other, applicant is required to use either New York City or densely populated areas of northern New Jersey as gateways. By serving the aforementioned counties as intermediate and off-route points, applicant would obtain and does seek another gateway in order to avoid congested areas, and also to make use of Interstate Highway 80, which applicant presently traverses in moving freight between points in New England on the one hand, and points in western Pennsylvania, Ohio, Kentucky, and Illinois on the other. Applicant is presently handling substantial tonnage to and from the aforemention New York State counties, it is a competitor for business in those counties, having served same for many years, and the new gateway will not adversely affect the competitive picture. Applicant maintains a break bulk and terminal facility at Newburgh, N.Y., and the terminal will be the base for pick up and delivery and consolidation of traffic at and destined to the aforementioned New York counties. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 44639 (Sub-No. 62), filed October 26, 1972. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's Representative: Herman B. J. Weckstein, 60 Park Place, Newark NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies used in the manufacture of wearing apparel* (except commodities in bulk), between Boydton, Va., on the one hand, and, on the other, Crewe, Va., and the New York, N.Y., commercial zone. NOTE: Applicant states that the requested authority can be tacked at New York, N.Y., with the authority it

holds in certificate No. MC 44639, to transport those commodities named above and cut and uncut goods, trimmings, garments, buttons, clips, clasps, and articles used in the manufacture of garments to points in New Jersey, Maryland, and Virginia. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 52858 (Sub-No. 109), filed November 6, 1972. Applicant: CONVOY COMPANY, a corporation, 3900 Northwest Yeon Avenue, Post Office Box 10185, Portland, OR 97210. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1400, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New import automobiles and light-duty trucks* and *used automobiles and light-duty trucks*, between points in Colorado, Kansas, and Nebraska. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority and serve points in North and South Dakota, Arizona, Montana, and Oregon. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., Kansas City, Kans., or Omaha, Nebr.

No. MC 59680 (Sub-No. 203), filed November 3, 1972. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Avenue, Post Office Box 5689, Dallas, TX 75222. Applicant's representative: Oscar P. Peck (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Ecological Assistance Rubber Co. (EARCO) at or near Kountze, Tex., as an off-route point in connection with carrier's authorized regular-route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 59680 (Sub-No. 204), filed October 30, 1972. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Avenue, Post Office Box 5689, Dallas, TX 75222. Applicant's representative: Oscar P. Peck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, and except household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment: (1) Between Bryan and Huntsville, Tex., from Bryan over Texas Farm Road 158 to junction Texas Highway 30, thence over Texas Highway 30 to Huntsville, Tex., and return, serving no intermediate points; (2) between Bryan and Madisonville, Tex., from Bryan over U.S. Highway 190 to Madisonville and return, serving no intermediate points; (3) between College Station and Huntsville, Tex., from College Station over Texas Highway 30 to Huntsville and return, serving no intermediate points; (4) between Waco and Corsicana, Tex., from Waco over Texas Highway 31 to Corsicana and return, serving no intermediate points; (5) between Navasota and Brenham, Tex., from Navasota over Texas Highway 90 to Brenham and return, serving no intermediate points; (6) between Navasota and Conroe, Tex., from Navasota over Texas Highway 105 to Conroe and return, serving no intermediate points; (7) between junction Texas Highway 6 and Texas Highway 164 and Buffalo, Tex., from junction Texas Highway 6 and Texas Highway 164, over Texas Highway 164 to Buffalo, and return, serving no intermediate points; (8) between Bryan and Lincoln, Tex., from Bryan over Texas Highway 21 to Lincoln and return, serving no intermediate points; (9) between Dallas and Alvarado, Tex., from Dallas over U.S. Highway 67 to Alvarado and return, serving no intermediate points;

(10) Between Ennis and Waxahachie, Tex., from Ennis over U.S. Highway 287 to Waxahachie, Tex., and return, serving no intermediate points; (11) between Ennis and Italy, Tex., from Ennis over Texas Highway 34 to Italy and return, serving no intermediate points; (12) between Fairfield and Waco, Tex., from Fairfield over U.S. Highway 84 to Waco and return, serving no intermediate points; (13) between Hillsboro and Corsicana, Tex., from Hillsboro over Texas Highway 22 to Corsicana and return, serving no intermediate points; (14) between Richland and Bremond, Tex., from Richland over Texas Highway 14 to Bremond and return, serving no intermediate points; (15) between Temple and Rosebud, Tex., from Temple over Texas Highway 23 to Rosebud and return, serving no intermediate points; (16) between Rosebud and Reagan, Tex., from Rosebud over Texas Farm Road 413 to Reagan and return, serving no intermediate points; (17) between Texarkana and Waco, Tex., from Texarkana over U.S. Highway 59 to Linden, Tex., thence over Texas Highway 155 to Tyler, Tex., thence over Texas Highway 31 to Waco, Tex., and return, serving no intermediate points but serving Corsicana, Tex., as point of joinder only with other regular routes. The above routes 1 through 17 are alternate routes for operating convenience only. NOTE: If a hearing as deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 59680 (Sub-No. 205), filed November 2, 1972. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Avenue, Post Office Box 5689, Dallas, TX 75222. Applicant's representative: Oscar P. Peck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Playground apparatus, recreational equipment, athletic or sporting goods, games or toys, blackboards, chalkboards, corkboards or tackboards and materials, equipment, and supplies* used in the manufacture, production, and shipping of such commodities (except commodities in bulk and commodities which because of size or weight require the use of special equipment), between the plantsite and warehouse facilities of the Leisure Group, Inc., Blazon Division at or near West Point, Miss., on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.; Memphis, Tenn., or Washington, D.C.

No. MC 66886 (Sub-No. 36), filed August 18, 1972. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Applicant's representative: Frank W. Taylor, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building, earth moving, construction, mining and contractors machinery and equipment, and parts* thereof when moving at the same time or separately, from Chattanooga, Tenn., to points in the United States (excluding Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 67450 (Sub-No. 45), filed October 27, 1972. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 South Ewing Avenue, Chicago, IL 60617. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold by retail mail-order houses, between Elgin, Ill., on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, Alabama, Arizona, California, Delaware, Georgia, Idaho, Louisiana, Maine, Mississippi, Montana, North Carolina, North Dakota, Nevada, New Mexico, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming), restricted to traffic originating at and destined to the plants, warehouses or retail stores of Lee Wards-Dexter Thread Mills, Inc. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 74321 (Sub-No. 63), filed October 25, 1972. Applicant: B. F. WALKER, INC., 650 17th Street, Den-

ver, CO 80202. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers* and *fluid coolers*, which because of size or weight require the use of special equipment, and *cooling towers, fluid coolers, and accessories for cooling towers and fluid coolers*, which does not require the use of special equipment, when moving in the same vehicle with cooling towers and fluid coolers, which because of size or weight require the use of special equipment, and *supplies, machinery, and equipment* used in the manufacture of cooling towers and fluid coolers, between the plantsite of The Marley Co.; Louisville, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., Kansas City, Mo., or Louisville, Ky.

No. MC 74321 (Sub-No. 64), filed October 30, 1972. Applicant: B. F. WALKER, INC., 650 17th Street, Denver, CO 80202. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V of *Descriptions in Motor Carrier Certificates*, Ex Parte No. MC-45, 64 M.C.C. 209, between Tulsa and the Port of Catoosa, Okla., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states that although tacking is possible with some of its present authority, it is not the intention of applicant at the filing of this application to propose a tacking operation. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla.

No. MC 76032 (Sub-No. 297), filed October 24, 1972. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223. Applicant's representative: Kenneth A. Willhite (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* article, as described in Appendix V of *Description in Motor Carrier Certificates*, Ex Parte No. MC 45, 64 M.C.C. 209, between Tulsa and the Port of Catoosa, Okla., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and Wyoming. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 85850 (Sub-No. 7), filed October 22, 1972. Applicant: NEYLON FREIGHT LINES, INC., % JONES TRUCK LINES, INC., Springdale, Ark. 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, Springdale, AR 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives and household goods as defined by the Commission and commodities in bulk and those requiring special equipment) serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's operations via Omaha, Nebr. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or St. Louis, Mo.

No. MC 95920 (Sub-No. 27), filed November 6, 1972. Applicant: SANTRY TRUCKING COMPANY, a corporation, 11552 Southwest Pacific Highway, Portland, OR 97223. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, malt beverage containers, cartons, bottle and can openers, advertising matter and brewery products, materials and supplies, and machinery* moving incidentally to the movement of malt beverages, from Olympia, Wash., to points in Iowa, Kansas, and Nebraska; and (2) *empty containers, rejected or spoiled malt beverages, hops*, in bales, *rice, grain, infusorial earth, brewers malt, advertising matter and other materials, ingredients or supplies, and machinery and equipment* used in the manufacture of malt beverages, from points in Iowa, Kansas, and Nebraska, to Olympia, Wash., under a continuing contract with Olympia Brewing Co., Olympia, Wash. NOTE: Applicant now holds common carrier authority under its No. MC 123265, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 98952 (Sub-No. 28), filed October 27, 1972. Applicant: GENERAL TRANSFER COMPANY, a corporation, 2880 North Woodford Street, Decatur, IL 62526. Applicant's representative: G. M. Rebman, 1230 Boatmen's Bank Building, 314 North Broadway, St. Louis, MO 63102. 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 and stores, from the storage facilities of and/or utilized by CPC International, Inc., and/or United Facilities, Inc., at or near Galesburg, Ill., to points in Iowa and Missouri, restricted to traffic originating at such storage facilities of and/or utilized by CPC International, Inc., and/or United Facilities, Inc., at or near Galesburg, Ill. and destined to points in Iowa and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 103051 (Sub-No. 261), filed October 30, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Post Office Box 90408, Nashville, TN 37209. Applicant's representative: Gregory A. Presnell, 17th Floor, CNA Building, Post Office Box 231, Orlando, FL 32802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Tampa, Fla., to points in North Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Tampa, Fla.

No. MC 103926 (Sub-No. 27), filed November 6, 1972. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, 3881 Bankhead Highway, Post Office Box 947, Mableton, GA 30059. Applicant's representative: R. J. Reynolds III, 1500 Candler Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roadbuilding, earthmoving, construction, mining and contractors' machinery and equipment*, and *parts thereof*, when moving at the same time or separately, from Chattanooga, Tenn., and points in its commercial zone, to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that tacking is intended at Chattanooga, Tenn., with existing authority in its Sub-No. 8 wherein it holds authority from points in Georgia, to points in Arkansas, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Ohio, Pennsylvania, Texas, Virginia, West Virginia, and the District of Columbia. Applicant furtrer states that no duplicating authority is sought. If a

hearing is deemed necessary, applicant requests it be held at Altanta, Ga., or Chattanooga, Tenn.

No. MC 105045 (Sub-No. 38), filed October 30, 1972. Applicant: R. L. JEFFRIES TRUCKING CO., INC., Post Office Box 3277, Evansville, IN 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, 15th and New York Avenue NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, aluminum plate and extrusions, and contractors' machinery, equipment, materials and supplies*, between Indian Oaks, Ill., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill

No. MC 106398 (Sub-No. 629), filed October 26, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glasing units*, from Clinton and Laurinburg, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106920 (Sub-No. 44), filed October 25, 1972. Applicant: RIGGS FOOD EXPRESS, INC., Post Office Box 26, West Monroe Street, New Bremen, OH 45869. Applicant's representative: Carroll V. Lewis, Post Office Box 717, 122 East North Street, Sidney, OH 45365. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Sedalia, Mo., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 107515 (Sub-No. 816), filed November 1, 1972. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa to points in North Carolina, South Carolina, Georgia, Florida, Tennessee, and Alabama, restricted to traffic originating at the plantsites and warehouse facilities used by Kitchens of Sara Lee and destined to the named States. NOTE: Applicant states that no duplicating authority is being sought. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Atlanta, Ga., or Washington, D.C.

No. MC 107993 (Sub-No. 25), filed October 27, 1972. Applicant: J. J. WILLIS TRUCKING COMPANY, a corporation, Post Office Box 20096, Dallas, TX 75220. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt heating units and asphalt storage units*, between points in Bernalillo County, N. Mex., on the one hand, and, on the other points in Arizona, Arkansas, California, Colorado, Kansas, Louisiana, Nevada, Oklahoma, Texas, Utah, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Albuquerque, N. Mex.

No. MC 108207 (Sub-No. 361), filed November 1, 1972. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, Dallas, TX. Applicant's representative: J. B. Ham, Post Office Box 5888. Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Ames and Boone, Iowa to points in Kansas and Missouri and to Minneapolis and St. Paul, Minn., and points in their commercial zones. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or Omaha, Nebr.

No. MC 109397 (Sub-No. 281), filed October 23, 1972. Applicant: TRI-STATE TRANSIT CO., a corporation, Post Office Box 113 (Business Loop I–44 East), Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *tractor parts* and *attachments* therefor, from Romeo, Mich., to points in that part of Illinois east of U.S. Highway 51 and north of U.S. Highway 50; Indiana, Ohio, that part of Kentucky east of U.S. Highway 127, that part of New York west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to Hamburg, N.Y., and thence along U.S. Highway 62 to Niagara, N.Y., that part of Pennsylvania west of U.S. Highway 219, and that part of West Virgina west of U.S. Highway 219, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted hereinabove is restricted to the transportation of shipments originating at the plant site of Ford Motor Co. at Romeo, Mich., and destined to the named destination points above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 110525 (Sub-No. 1045), filed October 30, 1972. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representatives: Thomas J. O'Brien (same address as above), and Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, and *adipic acid*, dry, in bulk, in tank vehicles, (1) from Syracuse, N.Y., to points in Delaware, Maryland, New Jersey, Ohio, Pennsylvania, and West Virginia, and (2) from Hopewell, Va., to Chestertown, Md. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 112822 (Sub-No. 249), filed November 6, 1972. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little, Cushing, OK 74023. Applicant's representative: K. Charles Elliott (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Kitchens of Sara Lee at New Hampton, Iowa and Deerfield, Ill., to points in Arizona, California, and New Mexico, restricted to the transportation of traffic originating at the above-named facilities and destined to the named destination States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 113843 (Sub-No. 190), filed October 10, 1972. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: Lawrence T. Shells (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Canned goods,* from Bridgeville, Del., to points in Iowa, Kansas, Louisiana, Minnesota, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113855 (Sub-No. 261), filed October 26, 1972. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles,* (1) between points in California, on the one hand, and, on the other, points in Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming; (2) between points in Oregon and Washington, on the one hand, and, on the other, points in Montana, Nevada, Utah, and Wyoming; and (3) between points in Idaho and Nevada, on the one hand, and, on the other, points in Montana, Wyoming, and Utah, restricted to service at points in Montana, Wyoming, and Utah for purpose of joinder only. NOTE: Applicant states that the requested authority can be tacked with its existing authority on certain commodities but has no present intentions to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at either San Francisco, Calif., Portland, Oreg., or Salt Lake City, Utah.

No. MC 113855 (Sub-No. 262), filed October 26, 1972. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road S.E., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* between Tulsa and the port of Catoosa, Okla., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority on certain commodities but has no present intentions to tack, therefore it does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 114045 (Sub-No. 368) (Correction), filed July 7, 1972, published in the FEDERAL REGISTER issue of August 3, 1972, and republished in part, as corrected this issue. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, TX 75222. Applicant's representative: J. B. Stuart (same address as applicant). NOTE: The purpose of this partial republication is to correct the restriction to read as follows: Restriction: Commodities named in (1) and (2) above are restricted to transportation in vehicles equipped with mechanical refrigeration, and against the transportation of commodities in bulk and in tank vehicles. The word "against" in the restriction was inadvertently omitted in the previous publication. The rest of the application remains the same.

No. MC 114211 (Sub-No. 183), filed November 6, 1972. Applicant: WARREN TRANSPORT, INC., Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Kenneth R. Nelson (same address as above) and Daniel Sullivan, Singer & Lippman, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except those with vehicle beds, bedframes or fifth wheels); (2) *agricultural, industrial and construction machinery and equipment;* (3) *attachments;* (4) *engines;* (5) *equipment* designed to be used in conjunction with the above-described commodities; and (6) *materials, supplies, and equipment* used or useful in the manufacture or distribution of the above-named commodities (except commodities in bulk) and *parts and castings,* from Charles City, Iowa to points in the United States (except Alaska and Hawaii); and *materials, supplies, and equipment* used or useful in the manufacture or distribution of the above-named commodities (except commodities in bulk) and *parts and castings,* from points in the United States (except Alaska and Hawaii) to Charles City, Iowa. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 114301 (Sub-No. 74), filed October 27, 1972. Applicant: DELAWARE EXPRESS CO., a corporation, Post Office Box 97, Elkton, MD 21921. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Animal and poultry feed, germicides, fungicides, insecticides, vermifuges, disinfectants and weed-killing compounds,* in containers and garden sprayers and dusters, from Lewisburg and Hampden Township (Cumberland County), Pa., to points in Delaware, Maryland, New Jersey, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114301 (Sub-No. 75), filed October 30, 1972. Applicant: DELAWARE EXPRESS CO., a corporation, Post Office Box 97, Elkton, Md. 21921. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Phonograph record compounds,* from Pitman, N.J. to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114917 (Sub-No. 6), filed October 27, 1972. Applicant: DART TRANSPORTATION SERVICE, a corporation, 1430 South Eastman Avenue, Los Angeles, CA 90023. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, CA 90621. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail-order and chain retail department business houses, from points in the Los Angeles and Los Angeles Harbor, Calif. commercial zones, to points in California located (a) north of the southern boundaries of Santa Barbara and Kern Counties; (b) west of the western boundaries of San Bernardino, Inyo, and Mono Counties; and (c) North of the northern boundary of Mono County, under contract with Sears, Roebuck and Co. NOTE: Applicant states it presently holds authority as set forth in permits numbered MC 114917 (Sub-No. 2) and MC 114917 (Sub-No. 3), and in temporary authority Order No. MC 114917 (Sub-No. 5TA). The scopes of all of these authorities are included within the scope of this application. When and if this application is approved and a permit issued, applicant will authorize and request concurrent revocation of the above-numbered permits and dismissal of the outstanding temporary authority order. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 115826 (Sub-No. 246), filed September 25, 1972. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Applicant's representatives: Ezekial Gomez (same address as above), and Charles Kimball, 1600 Broadway, Denver, CO 80217. Authority sought to operate as a *common carrier,* by motor

vehicle, over irregular routes, transporting: *Pizza supplies, pizza topping, dairy products and cheese products,* (1) from Chappel and Superior, Nebr., to Wichita and Hutchinson, Kans., and points in Georgia, Texas, California, Missouri, Massachusetts, Florida, Oregon, Colorado, and Utah, and (2) from Wichita and Hutchinson, Kans., to points in Georgia, Texas, California, Missouri, Massachusetts, Florida, Oregon, Colorado, and Utah. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115826 (Sub-No. 247), filed October 26, 1972. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Applicant's representatives: Ezekial Gomez (same address as above), and Charles Kimball, Room 2310 Colorado State Bank, 1600 Broadway, Denver, CO 80217. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs,* from points in Colorado, to points in Alabama, Florida, Georgia, Idaho, Kentucky, Louisiana, Mississippi, Montana, North Carolina, Oregon, South Carolina, Tennessee, Utah, Virginia, Washington, and Wyoming; (2) *Foodstuffs* (except canned goods and sugar) and *canned goods,* when moving in mixed loads with other foodstuffs, (a) from points in Colorado (except Delta), to points in Arkansas, California, Iowa, Kansas, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, and Texas, and (b) from points in Colorado (except Delta, Forts Morgan and Sterling), to points in Arizona; and (3) *Such commodities* as are usually dealt in, or used by, wholesale or retail grocery and food business houses, from points in Colorado, to points in New Mexico and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115841 (Sub-No. 445), filed October 24, 1972. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, AL 35204. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Candy and confectionery products* (except in bulk), and *advertising equipment, materials and supplies, and advertising premiums,* from Covington, Tenn., to points in Arkansas and Oklahoma. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116459 (Sub-No. 45), filed November 8, 1972. Applicant: RUSS TRANSPORT, INC., Post Office Box 4022, Chattanooga, TN 37405. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (a) *Nitrogen fertilizer solutions or other liquid fertilizer solutions* in tank vehicles; and (b) *fertilizer,* dry, in bags or bulk, from Tyner, Tenn., to points in Alabama, Georgia, Kentucky, North Carolina, South Carolina, Virginia, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 116544 (Sub-No. 136), filed October 27, 1972. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: Floyd F. Knutson (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Mankato, Kans., to points in Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, Kentucky, Illinois, Indiana, Wisconsin, Minnesota, Michigan, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Kansas City, Mo.

No. MC 117779 (Sub-No. 2), filed October 27, 1972. Applicant: RICHARD JACOB, JR. AND JOSEPH G. JACOB, a partnership, doing business as R. J. FRUIT AND PRODUCE-TRUCKING, 423 North 18th Street, Richmond, VA 23223. Applicant's representative: William J. Fair, 408 Penn Lane, Springfield, PA 19064. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Charleston, S.C., to points in Connecticut, Delaware, the District of Columbia, Illinois (except Chicago), Indiana, Maryland (except Baltimore), Massachusetts, Michigan (except Detroit), Ohio (except Cleveland), New Hampshire, New Jersey, New York (except Buffalo, Menands, New York City, and Waterford), Rhode Island, Tennessee, Virginia (except Norfolk, Petersburg, and Richmond), West Virginia (except Huntington), and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 118431 (Sub-No. 5), filed October 27, 1972. Applicant: DENVER SOUTHWEST EXPRESS, INC., 605 South 14th Street, Lincoln, NE 68501. Applicant's representative: David R. Parker, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from the plantsites of and the warehouses utilized by the Kitchens of Sara Lee at Deerfield and Chicago, Ill., to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri (on and west of U.S. Highway 65) and Tennessee, restricted to traffic originating at these facilities and destined to the named States, under contract with Kitchens of Sara Lee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 118910 (Sub-No. 3), filed October 31, 1972. Applicant: MRS. T. E. GROTEVANT, doing business as, J & G CONTRACT CARRIERS, 610 West Henry Street, Pontiac, IL 61764. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Steel doors, channels, angles, coils, hardware, screens, awnings, and such other commodities as are used by or dealt in by manufacture of aluminum and plastic products and component parts thereof,* (a) between Rice Lake, Wis., on the one hand, and, on the other, Bayport, Minneapolis, and St. Paul, Minn.; Davenport and Pella, Iowa, and Chatsworth, Elmhurst, Rockford, Aurora, West Chicago, and St. Charles, Ill.; (b) between Davenport and Pella, Iowa, on the one hand, and, on the other, Chatsworth, Elmhurst, Rockford, Aurora, West Chicago, and St. Charles, Ill., and (c) between Chatsworth, Ill., on the one hand, and, on the other, Plymouth, Ind., and Chesaning, Mich., under contract with Nichols-Homeshield, Inc., of Chatsworth, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119384 (Sub-No. 21), filed November 6, 1972. Applicant: MORTON TRUCK LINES, INC., 101 West Willis Street, Perry, IA 50220. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descrip-*

tions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Denison, Carroll, and Iowa Falls, Iowa, and Garden City, Kans., to points in Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin, Oklahoma, North Dakota, and South Dakota. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119493 (Sub-No. 95), filed October 30, 1972. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bags or packages, from Chanute, Kans., to points in Arkansas, Missouri, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119493 (Sub-No. 96), filed October 30, 1972. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt, Post Office Box 1196, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal cans and their accessories, and prefabricated containers* complete or in sections, *and their accessories*, from Joplin, Mo., to points in Oklahoma, Arkansas, Kansas, and Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119774 (Sub-No. 61), filed October 16, 1972. Applicant: EAGLE TRUCKING COMPANY, a corporation, Post Office Box 471, Kilgore, Tex. 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe, cast iron and brass valves and components, cast iron fittings and cast iron fire hydrants* (except pipe and pipe fittings as described in Mercer Oil Field Extension, 74 M.C.C. 459), from Bessemer and North Birmingham, Ala., to points in Colorado, Kansas, Louisiana, Missouri, Minnesota, Nebraska, New Mexico, North Dakota, South Dakota, and Texas, restricted to traffic originating at the plantsite and storage facilities of U.S. Pipe & Foundry Co., at Bessemer and North Birmingham, Ala. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Dallas, Tex.

No. MC 119774 (Sub-No. 62), filed October 16, 1972. Applicant: EAGLE TRUCKING COMPANY, a corporation, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition boards, insulation materials, urethane and urethane products, and related materials, supplies and accessories incidental thereto* (except commodities in bulk), from the plantsite and warehouse facilities of the Celotex Corp., located at Memphis, Tenn., and points in Henry County, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 119974 (Sub-No. 40), filed October 27, 1972. Applicant: L. C. L. TRANSIT COMPANY, a corporation, 949 Advance Street, Green Bay, WI 54305. Applicant's representative: Charles E. Dye, Post Office Box 949, Green Bay, WI 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles manufactured and/or dealt in by wholesale and retail grocery houses*, from the facilities of United Facilities, Inc., located at or near Galesburg, Ill., to points in Indiana, Iowa, Michigan, Minnesota, Wisconsin, and St. Louis, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123067 (Sub-No. 116), filed November 6, 1972. Applicant: M & M TANK LINES, INC., Post Office Box 30006, Washington, DC 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea*, dry, in bulk, (1) from points in Chatham County, Ga., to points in North Carolina and South Carolina, and (2) from Chesapeake, Va., to points in North Carolina and Virginia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that it believes that if the proposed service is granted it will beneficially serve the quality of the human environment. There will be no adverse effects on the human environment if this service is granted, and further it is applicant's belief that the long-term productivity of the proposed service will be beneficial to man's environment. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124078 (Sub-No. 534), filed November 3, 1972. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, from points in Pulaski County, Ark., to all points in the United States (except Alaska and Hawaii); (2) *cement mill waste and stack dust*, from Rockmart, Ga.; Chattanooga, Tenn.; and Ragland, Ala., to points in Alabama, Georgia, North Carolina, South Carolina, and Tennessee; and (3) *flour*, in bulk, from Gibson City, Ill., to points in Indiana, Iowa, Minnesota, Missouri, and Wisconsin. NOTE: Applicant states that tacking is possible but not intended. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Chicago, Ill.

No. MC 124154 (Sub-No. 54), filed October 20, 1972. Applicant: WINGATE TRUCKING COMPANY, INC., Post Office Box 645, Albany, GA 31702. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden textile bobbin blank*, from Wheatley, Ark., to Greenville, S.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Jacksonville, Fla.

No. MC 124230 (Sub-No. 18), filed October 30, 1972. Applicant: C. B. JOHNSON, INC., Post Office Drawer S, Cortez, CO 81321. Applicant's representative: Leslie R. Kehl, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore and concentrates*, (1) from points in Dolores, Hinsdale, La Plata, Montrose, Ouray, San Juan, and San Miguel Counties, Colo., to points in Bernalillo, Sandoval, and McKinley Counties, N. Mex., and points in Arizona; and (2) between points in Montrose and Jackson Counties, Colo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 125146 (Sub-No. 2), filed October 17, 1972. Applicant: BOB WHITAKER, Post Office Box 65, Roswell, NM 88201. Applicant's representative: Edwin E. Piper, Jr., 715 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt with by wholesale, retail, and chain grocery

and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business; and *commodities* the transportation of which is partially exempt under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle and at the same time with the commodities above described, from Lubbock, Tex., to points in New Mexico and Arizona, under a continuing contract or contracts with Furr's Inc., and Farm Pac Kitchens, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 127042 (Sub-No. 105), filed October 26, 1972. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations and beauty and barber supplies* (except commodities in bulk), from points in Illinois to points in Kansas and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 127042 (Sub-No. 106), filed November 6, 1972. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts* as described in section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, except hides and commodities in bulk, from points in Iowa to points in Oregon. NOTE: Applicant states that the requested authority can be tacked with its existing authority under Sub 30 from Perkin, Ill.; Sub 25 from Albert Lea, Minn.; Sub 8 from Worthington and Luverne, Minn.; Sioux Falls, Huron, S. Dak.; West Point and Omaha, Nebr. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 127042 (Sub-No. 108), filed November 8, 1972. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Seats* and (2) *kitchen cabinets*, from Davenport, Iowa, to points in Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Iowa, Missouri, Minnesota, Wisconsin, Illinois, Michigan, Indiana, Ohio, and Kansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Davenport, Iowa, or Chicago, Ill.

No. MC 127902 (Sub-No. 6), filed October 26, 1972. Applicant: DIETZ MOTOR LINES, INC., Post Office Box 1427, Hickory, NC 28601. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture and furniture stock*, from Flora, Miss., to Lenoir and Bryson City, N.C.; and (2) *furniture stock*, in return movement, from Lenoir, N.C., to Flora, Miss. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 128798 (Sub-No. 3), filed October 31, 1972. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Road, Larchmont, NY 10538. Applicant's representative: Blanton P. Bergen, 137 East 36th Street, New York, NY 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores, and in connection therewith, *materials, supplies, and equipment* used in the conduct of such business, between New York, N.Y., and Jenkintown (Montgomery County), Pa., Short Hills (Morris County), Hackensack (Bergen County), N.J., Stamford, Conn., and Newton, Mass., and points in Barnstable, Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties, Mass., and Providence County, R.I., restricted against the transportation of commodities in bulk, and under a continuing contract with Bloomingdale Bros., a division of Federated Department Stores, Inc., of New York, N.Y.

No. MC 128866 (Sub-No. 44), filed October 27, 1972. Applicant: B & B TRUCKING, INC., Post Office Box 128, Cherry Hill, NJ 08034. Applicant's representative: J. Michael Farrell, 1815 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum foil and sheet*, from the plantsite of Kaiser Aluminum Co. at Ravenwood, W. Va., to the plantsite of Penny Plate, Inc., at Deerfield, Ill., and (2) *scrap aluminum defective or damaged aluminum foil and sheet, skids, pallets, and aluminum cores*, from the plantsite of Penny Plate, Inc., at Deerfield, Ill., Cherry Hill, N.J., and Searcy, Ark., to the plantsite of Johnson Motor Co., located at Waukegan, Ill., under contract with Penny Plate, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129350 (Sub-No. 23), filed October 31, 1972. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, Box 212, Billings, MT 59103. Applicant's representative: Clayton Brown (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Meagher County, Mont., to points in Arkansas, Kentucky, Missouri, Ohio, Oklahoma, Tennessee, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority at points in Meagher County, Mont., but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Billings or Great Falls, Mont.

No. MC 129903 (Sub-No. 5), filed September 21, 1972. Applicant: CALVIN T. VERNON, doing business as, EMPORIA MOTOR FREIGHT, Route 5, Box 1103, Emporia, KS 66801. Applicant's representative: John L. Richeson, First National Bank Building, Ottawa, KS 66067. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Iowa Beef Processors, Inc., located at or near Emporia, Kans., to points in Arkansas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 133684 (Sub-No. 7), filed October 26, 1972. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Highway W., Tacoma, WA 98422. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular and regular routes, transporting: *Malt liquors and advertising material and supplies* when shipped in connection with shipments of malt liquor, (1) Irregular routes: from Vancouver, Wash., to points in Oregon; and (2) regular routes: between Vancouver, Wash., and Spokane, Wash., from Vancouver south along Interstate Highway 5 to junction Interstate Highway 80N in Portland, Oreg., thence over Interstate Highway 80N to junction U.S. Highway 730, thence over U.S. Highway 730 to junction U.S. Highway 395, thence north over U.S. Highway 395 to junction Interstate Highway 90, thence east over Interstate Highway 90 to Spokane, and return over the same route, serving no intermediate points. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 135007 (Sub-No. 23), filed November 1, 1972. Applicant: AMERICAN TRANSPORT, INC., 108 East Renfro Circle, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box

80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bedframes and accessories*, from Benicia, Calif., to points in Washington, Montana, New Mexico, Arizona, Texas, Oregon, Colorado, Idaho, and Utah, and (2) *carpet tacking strip and materials and equipment* used for the installation of carpet, from City of Industry and Los Angeles, Calif., to points in New Mexico, Colorado, Texas, Oklahoma, Idaho, Utah, Arizona, Kansas, Missouri, Louisiana, and Nebraska, under continuing contract with William Volker & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135007 (Sub-No. 24), filed November 2, 1972. Applicant: AMERICAN TRANSPORT, INC., 108 East Renfro Circle, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering, floor tile and rugs*, from a point at or near Merced, Calif., to points in Washington, Oregon, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, South Dakota, Nebraska, Kansas, Oklahoma Texas, Iowa, Missouri, Arkansas, and Louisiana under a continuing contract with William Volker & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135126 (Sub-No. 2), filed October 26, 1972. Applicant: KENNETH R. COOPER, an individual doing business as, C & H BODY SHOP, West Highway 20, South Sioux City, NE 68776. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68508. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled trucks, wrecked or disabled truck tractors, and wrecked or disabled trailers*, from points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, New Mexico, Texas, Louisiana, Arkansas, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Kentucky, Tennessee, West Virginia, Michigan, Pennsylvania, Maryland, Delaware, New Jersey, Ohio, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, to Omaha and South Sioux City, Nebr., and Sioux City, Iowa, under a continuing contract, or contracts, with Great West Casualty Co., at South Sioux City, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa.

No. MC 135276 (Sub-No. 4), filed October 31, 1972. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water Street, Frederick, Md. 21701. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and crushed stone*, in bulk, in dump vehicles, from Warfordsburg, Pa., to points in Frederick and Washington Counties, Md. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136008 (Sub-No. 6), filed October 27, 1972. Applicant: JOE BROWN COMPANY, INC., 20 Third Street NE., Post Office Box 1669, Ardmore, OK 73401. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23d Street, Post Office Box 75124, Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed limestone*, (1) from the plantsite of Sooner Rock Quarry, near Davis, Okla., and (2) the plantsite of Delta Mining, Ryder Station, located approximately 5 miles from Mill Creek, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 136220 (Sub-No. 4), filed October 30, 1972. Applicant: ROY SULLIVAN, doing business as, SULLIVAN TRUCKING CO., an individual, 1705 Northeast Woodland, Ponca City, OK 74601. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the mining facilities of Buckhorn Coal Co., Ltd., at Prairie View, Ark., to Coffeyville, Kans., and Bartlesville, Okla. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 136352 (Sub-No. 2), filed October 20, 1972. Applicant: GEORGE E. McLAUGHLIN, Post Office Box 243, Berwick, PA 78603. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles and equipment, parts and supplies used in the manufacture thereof*, (1) between the plantsites of Wheaton Plastics Co. at Mays Landing, N.J., Des Plaines and Centralia, Ill., and Ventora, Calif., and (2) from the plantsites of Wheaton Plastics Co. at Mays Landing, N.J., Des Moines and Centralia, Ill., to Irving, Los Angeles and San Francisco and their commercial zones, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136483 (Sub-No. 1), filed November 1, 1972. Applicant: FOLEY WAREHOUSING, INCORPORATED, 24th and Morton Avenue, Norfolk, VA 23517. Applicant's representative: Blair P. Wakefield, Suite 1001, First & Merchants Bank Building, Norfolk, Va. 23510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except commodities in bulk), in containers or in trailers having a prior or subsequent out-of-state movement by water, and (2) *empty containers*, between points in a territory consisting of the commercial zones of Norfolk, Virginia Beach, Chesapeake, Newport News, Portsmouth, and Hampton, Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Norfolk or Richmond, Va., or Washington, D.C.

No. MC 136546 (Sub-No. 2), filed October 27, 1972. Applicant: PELTON BROS. TRANSPORT LIMITED, a corporation, Rural Route No. 3, Paris, ON, Canada. Applicant's representative: William J. Hirsch, Suite 444, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bags, from Ottawa, Ill., to ports of entry on the international boundary line between the United States and Canada located in Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 136647 (Sub-No. 7), filed October 27, 1972. Applicant: GREEN MOUNTAIN CARRIERS, INC., Post Office Box 1319, Albany, NY 12201. Applicant's representative: Wilmont E. James, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles*, as described in Ex-Parte MC 45, *Descriptions in Motor Carrier Certificates*, Appendix XI, 61 M.C.C. 289, and *printed matter*, between points in Vermont, and points in Cheshire, Coos, Grafton, and Sullivan Counties, N.H., on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Texas, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 136752 (Sub-No. 1), filed November 6, 1972. Applicant: MARAUDER MARINE CORPORATION, 8211 Lankershim Boulevard, North Hollywood, CA. Applicant's representative: Seymour Fried, 9808 Wilshire Boulevard, Suite 205, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boats, supplemental equipment and accessories such as motors, trailers, etc.*, from North Hollywood, Calif., to points

in the United States (except Alaska and Hawaii), and to include British Columbia, Canada, under contract with Catalina Yachts. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 136989 (Sub-No. 2), filed October 31, 1972. Applicant: R. F. BOX, doing buisness as R. F. BOX TRUCKING, 1401 Dartmouth NE., Albuquerque, NM 87106. Applicant's representative: Edwin E. Piper, Jr., 715 Simms Building, Albuquerque, NM 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor covering* (except carpeting and rugs), from the plantsite of G.A.F. Corp. at or near Whitehall Township, Allentown, Pa., to points in New Mexico, points in El Paso County, Tex., and points in Montezuma, La Plata, Archuleta, Conejos, Costilla, and Las Animas Counties, Colo.; (2) *light fixtures*, from the plantsite of Progress Lighting (a division of L.S.A. Corp.) at Philadelphia, Pa., to points in New Mexico, points in El Paso County, Tex., and points in Montezuma, La Plata, Archuleta, Conejos, Costilla, and Las Animas Counties, Colo., for the account of New Mexico Supply Co., Albuquerque, N. Mex.; (3) *floor covering* (except carpeting and rugs, from the plantsite of G.A.F. Corp. at or near Whitehall Township, Allentown, Pa., to points in Arizona, Nevada, Utah, California, Oregon, and Washington, for the account of Murrary B. Marsh Co., Inc., Los Angeles, Calif., and (4) *floor covering* (except carpeting and rugs), from the plantsite of G.A.F. Corp. at or near Whitehall Township, Allentown, Pa., to points in Arizona, New Mexico, Nevada, Utah, California, Oregon, and Washington; points in El Paso County, Tex., to points in Montezuma, La Plata, Archuleta, Conejos, Costilla, and Las Animas Counties, Colo., for the account of G.A.F. Corp., Inc., New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 138000 (Sub-No. 3), filed October 30, 1972. Applicant: ARTHUR H. FULTON, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Apples and apple products and juices*, from Mount Jackson, Va., to points in Indiana. NOTE: Applicant holds motor contract carrier authority in permit No. MC 129613 and subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138161, filed October 13, 1972. Applicant: AUSTIN VAN & STORAGE CO., INC., 422 Chestnut Street, San Antonio, TX 78202. Applicant's representative: C. H. Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, crated and uncrated, moving on through bills of lading having a prior or subsequent line haul movement by rail, motor, or air, between Austin, Killeen, and San Antonio, Tex., on the one hand, and, on the other, points in Atascosa, Bandera, Bastrop, Bell, Bexar, Blanco, Bosque, Brazos, Burnet, Burleson, Caldwell, Comal, Coryell, De Witt, Falls, Fayette, Frio, Gillespie, Gonzales, Grimes, Guadalupe, Hamilton, Hays, Hill, Karnes, Kendal, Kerr, Lampasas, La Salle, La Vaca, Lee, Limestone, Llano, McCullock, McLennan, McMullen, Mason, Medina, Milan, Mills, Robertson, San Saba, Travis, Washington, Williamson, and Wilson Counties, Tex. NOTE: Applicant states the above service to be performed under the jurisdiction of military installations allocating military household goods traffic which require pickup, delivery, and servicing of military household goods shipments. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Antonio or Austin, Tex.

No. MC 138163, filed October 24, 1972. Applicant: CONTAINER TRANSPORT, INC., Canterbury Road, Brooklyn, Conn. 06234. Applicant's representative: A. David Millner, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cloth, dry goods, yarn or fabric piece goods and garment parts*, used in the manufacture of clothing; *machinery and textile parts*, used in the manufacture of clothing; and *clothing*, loose on hangers and in containers, between the plants and facilities and contractors' plants and facilities of Garland Corp., at Brockton, Fall River, and Springfield, Mass.; Woonsocket, R.I.; Long Island, N.Y.; Christianburg, Dublin, Floyd, and Roanoke, Va.; Lumberton and Washington, N.C.; Allendale, Barnwell, and Beaufort, S.C.; Ailey, Colbert, Pelham, and Warrenton, Ga.; and St. Augustine and West Hollywood, Fla., under contract with affiliated companies of Garland Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 138165, filed October 10, 1972. Applicant: CANUCK CARRIERS, LTD., 1514 Meridian Road NE., Calgary, AB, Canada. Applicant's representative: Joe Gerbase, 100 Transwestern Building, 404 North 31st Street, Billings, MT 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and component parts thereof*, from Hastings, Nebr., and Logan, Utah, to points on the international boundary line between the United States and Canada located at or near Sweetgrass, Mont., and Pembina and Portal, N. Dak., under contract with McCulloch Equipment Co., Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings or Great Falls, Mont.

No. MC 138171, filed October 24, 1972. Applicant: THOMAS D. RAPER, doing business as DEE RAPER HORSE TRANSPORTATION, Route No. 5, Ada, Okla. 74830. Applicant's representative: Wilburn L. Williamson, 3535 Northwest 58th, Suite 280, National Foundation Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses*, other than ordinary, *mascots, stable supplies and equipment, tack and personal effects* of attendants when moving in the same vehicle with horses, between points in Arkansas, Arizona, California, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held in Oklahoma City, Okla.

No. MC 138172, filed October 28, 1972. Applicant: ROBERT A. POWERS, doing business as VAN'S WAREHOUSE AND DELIVERY CO., 405 North Ann Arbor, Post Office Box 75085, Oklahoma City, OK 73107. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23d Street, Post Office Box 75124, Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and appliances*, crated and uncrated, between points in Arkansas, Oklahoma, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 138185, filed October 10, 1972. Applicant: F. ROBERT McDONALD, doing business as AUTO DELIVERY SERVICE, 1150 Monterey Boulevard, San Francisco, CA 94127. Applicant's representative: John H. Manning, 3106 Fillmore, San Francisco, CA 94123. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Small trucks and motor vehicles*, by drive-away method, between points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 138191, filed October 30, 1972. Applicant: JAY'S SERVICE, INC., 402 Markwith, Greenville, OH 45331. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, or repossessed vehicles, and replacement vehicles* for such wrecked or disabled vehicles, between points in Allen, Auglaize, Darke, Mercer, Miami, Montgomery, Preble, and Shelby Counties, Ohio, on the one hand, and, on the other, points in the United States (including Alaska but excepting Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 138194, filed October 9, 1972. Applicant: KUHNLE BROTHERS, INC., Post Office Box 128, Chagrin Falls, OH 44022. Applicant's representative: Kenneth T. Johnson, Bankers Trust of Jamestown Building, Jamestown, N.Y. 14701. Authority sought to operate as a

contract carrier, by motor vehicle, over irregular routes, transporting: *Sand*, from points in Geauga County, Ohio, to points in Indiana, Michigan, Illinois, Pennsylvania, New York, and West Virginia, under a continuing contract with Walter C. Best, Inc., and its wholly owned subsidiary Bestone, Inc. NOTE: Applicant holds common carrier authority under MC 134235, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 138196, filed November 1, 1972. Applicant: REPUBLIC VAN & STORAGE OF LOS ANGELES, INC., 620 East Third Street, Los Angeles, CA 90013. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, CA 90621. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, (1) between points in Los Angeles and Orange Counties, Calif.; (2) between points in Los Angeles and Orange Counties, on the one hand, and, on the other, points in Riverside, San Bernardino, and San Diego Counties, Calif.; and (3) between points in Los Angeles County, on the one hand, and, on the other, points in Kern, Santa Barbara, and Ventura Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 138197, filed November 6, 1972. Applicant: L. SURRATT TRUCKING, INC., 2100 West Third Street, Cleveland, OH 44113. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete products*, from Cleveland, Ohio, to points in Pennsylvania, New York, Michigan, Indiana, and West Virginia, under a continuing contract with Cleveland Builders Supply Co., at Cleveland, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

MOTOR CARRIERS OF PASSENGERS

No. MC 112422 (Sub-No. 5), filed November 3, 1972. Applicant: SAM VAM GALDER, INC., 74 South Harmony Drive, Janesville, WI 53545. Applicant's representative: Victoria G. Yates, 8 South Madison Street, Evansville, WI 53536. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between Janesville and Beloit, Wis., and the Admiral Corp. plant, at Harvard, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis., or Chicago, Ill.

No. MC 119919 (Sub-No. 7), filed October 31, 1972. Applicant: BLAINE ALBERT WILLETTS, doing business as, WILLETTS' CHARTER SERVICE, Box 29, Frostburg, MD 21532. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at: (1) Points in Maryland on and west of a line beginning at the Maryland-Pennsylvania State line, thence south along Maryland Highway 57 to its intersection with U.S. Highway 40, along an imaginary straight line to the Potomac River; (2) points in Pennsylvania within an area bounded by a line at the Pennsylvania-Maryland State line, thence along Pennsylvania Highway 160 to Berlin, Pa., thence along U.S. Highway 219 to Garrett, Pa., thence along Pennsylvania Highway 653 to the Pennsylvania-Maryland State line, including all points on the portions of the highways indicated; and (3) points in Mineral County, W. Va.; and Berkeley Springs, Moorefield and Petersburg, W. Va.; and extending to all points in the United States (including Alaska but excluding Hawaii). (B) *Passengers and their baggage*, in the same vehicle with passengers, in special operation, in round-trip sightseeing and pleasure tours; beginning and ending at points in Mineral County, W. Va., and Moorefield, Petersburg, and Romney, W. Va.; and extending to all points in the United States (including Alaska but excluding Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Cumberland, Md.

No. MC 138086, filed September 13, 1972. Applicant: AUTO TRANSPORTES CD. MANTE, S. A. de C. V., 804 Pecan Street, Post Office Box 3592, McAllen, TX 78501. Applicant's representative: H. H. Rankin, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in the same vehicle, over city streets, between the international boundary line of the United States and the Republic of Mexico at Brownsville, Tex., and the Continental Union Bus Depot at Brownsville, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at Brownsville, McAllen, or Laredo, Tex.

APPLICATIONS FOR FREIGHT FORWARDERS

No. FF-355 (Sub-No. 1) (Burnham World Forwarders, Inc., freight forwarder application) (2) filed November 27, 1972. Applicant: BURNHAM WORLD FORWARDERS, INC., 1632 Second Avenue, Columbus, GA 31901. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought under section 410, Part IV of the Interstate Commerce Act for a permit authorizing applicant to conduct operations as a freight forwarder, in interstate or foreign commerce, in the forwarding of: (a) *Used household goods* and *unaccompanied baggage*, and (b) *used automobiles*, between points in the United States (including Hawaii, but excluding Alaska), restricted in (b) to the transportation of import-export traffic.

No. FF-355 (Sub-No. 1) (Burnham World Forwarders, Inc., freight forwarder application) (2), filed November 27, 1972. Applicant: BURNHAM WORLD FORWARDERS, INC., 1632 Second Avenue, Columbus, GA 31901. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought under section 410, Part IV of the Interstate Commerce Act for a permit authorizing applicant to conduct operations as a freight forwarder, in interstate or foreign commerce, in the forwarding of: (a) *Used household goods* and *unaccompanied baggage*, and (b) *used automobiles*, between points in the United States (including Hawaii, but excluding Alaska), restricted in (b) to the transportation of import-export traffic.

No. FF-381 (Sub-No. 1) (Neptune Thru-Container Corp. Freight forwarder application) (2) filed November 24, 1972. Applicant: NEPTUNE THRU-CONTAINER CORP., 55 Weyman Avenue, New Rochelle, NY 10805. Applicant's representative: S. S. Eisen, 370 Lexington Avenue, New York, NY 10017. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to continue operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by railroad, express, water, air, or motor vehicle in the transportation of: *Household goods* as defined by the Commission, *used automobiles*, restricted to the movement of privately owned automobiles of a householder when involving a change of residence, and *unaccompanied baggage*, between points in the United States (including points in Alaska and Hawaii).

APPLICATION FOR BROKERAGE LICENSE

No. MC 130181, filed November 3, 1972. Applicant: JOHN ALEXANDER HOLBROOK III, doing business as WESTERN PIONEER TOURS, 3207 Flanders Court, High Point, NC 27260. For a license (BMC-5) to engage in operations as a broker at High Point, N.C., in arranging for the transportation in interstate or foreign commerce of *passengers and their baggage*, in the same vehicle with passengers, beginning and ending at points in Randolph, Forsyth, Davidson, and Guilford Counties, N.C., and extending to points in the United States (including Alaska, but excluding Hawaii).

No. MC 130182, filed November 7, 1972. Applicant: GOLD RIBBON TOURS, INC., 446 Central Avenue, St. Petersburg, FL 33701. Applicant's representative: S. Harrison Kahn, Suite 733, Investment

Building, Washington, D.C. 20005. For a license (BMC-5) to engage in: (1) Operations as a *broker* at St. Petersburg, Fla., in arranging for transportation, by motor vehicle, in interstate or foreign commerce of *passengers and their baggage,* in special and charter operations, beginning and ending at Pinellas, Pasco, and Hillsboro Counties, Fla., and extending to points in the United States including Alaska and Hawaii; and (2) operations as a *broker* at St. Petersburg, Fla., for the arrangement, procurement, and sale of motor carrier transportation offered by certified motor common carrier, between all points in the United States including Alaska and Hawaii. NOTE: The conduct of motor coach tours in accordance with the Tauck Tours decision by the Interstate Commerce Commission.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 113908 (Sub-No. 245), filed October 30, 1972. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid animal and poultry feed ingredients,* in bulk, in tank vehicles, from Verona, Mo., to Portland, Oreg., and Stockton, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 113908 (Sub-No. 246), filed October 30, 1972. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Animal and poultry feed ingredients,* in bulk, in tank vehicles, from Verona, Mo., to Thorndike, Waldo County, Maine. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-20941 Filed 12-6-72;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

LEPTOPHOS

Notice of Establishment of Temporary Tolerances

The Velsicol Chemical Corp., 1725 K Street NW., Washington, DC 20006, submitted a petition (PP 2G1268) requesting establishment of temporary tolerances for combined residues of the insecticide leptophos (*O*-(4-bromo-2,5-dichlorophenyl) *O*-methyl phenylphosphonothioate), and its metabolites *O*-(4-bromo-2,5-dichlorophenyl) *O*-methyl phenylphosphonate; 4-bromo-2,5,-dichloiophenol; and *O*-(2,5-dichlorophenyl) *O*-methyl phenylphosphonothioate in or on the raw agricultural commodities apples, collards, peaches, and pears at three parts per million.

Subsequently, the petitioner amended the petition by (a) deleting the proposed tolerance on peaches, (b) increasing the proposed tolerance for residues of the insecticide on collards to five parts per million, and (c) restricting the insecticide's use on apples to fruit intended for the fresh fruit market.

It has been determined that temporary tolerances on apples (intended for the fresh fruit market) and pears at three parts per million and on collards at five parts per million are safe and will protect the public health. They are therefore established as requested on condition that the insecticide be used in accordance with the temporary permits being issued concurrently by the Environmental Protection Agency and which provide for distribution under the Velsicol Chemical Corp. name.

These temporary tolerances expire November 29, 1973.

This action is being taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: November 29, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20976 Filed 12-6-72;8:45 am]

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