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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, 1973, and specifies how they are affected.

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Title 3—The President

PROCLAMATION 4179

National Jaycee Week, 1973

By the President of the United States of America

A Proclamation

The Jaycee idea began with a handful of young men in St. Louis 53 years ago. Today, it embraces some 325,000 members in the more than 6,000 American communities, that have chapters of the United States Jaycees, and it enriches the lives of communities in 80 countries around the world through the affiliates of Junior Chamber International.

Yet even in its maturity the Jaycees organization retains a youthful outlook, and even with its global scope it continues to build on the individual member—first helping him be the best man he can be, then helping him help his fellow man in need, one to one.

The Jaycee cares about people, and he shows it. He cares about progress, and he does something about it. He lives by the creed that "Service to humanity is the best work of life," and he throws himself into that work both as a vocation and as an avocation.

He is the kind of young man this country will need in great numbers to help meet the challenges of our Bicentennial Era and our coming third century. It is fitting that we should annually give special recognition and encouragement to him and to his organization.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning January 21, 1973, as National Jaycee Week—a time for the expression of America's gratitude for the many significant contributions of the U.S. Jaycees.

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

Richard Nixon

[FR Doc.73-1603 Filed 1-23-73;10:12 am]

PROCLAMATION 4180

Announcing the Death of Lyndon Baines Johnson

By the President of the United States of America

A Proclamation

TO THE PEOPLE OF THE UNITED STATES:

It is my sad duty to announce officially the death of Lyndon Baines Johnson, the thirty-sixth President of the United States, on January 22, 1973.

President Johnson served his country for more than thirty years as Congressman, Senator, Vice President and President. Yet it can be said of Lyndon Johnson that he served his country all his life, for his was a complete and wholehearted love of our Nation. From his early days as a teacher, to his last days as a distinguished elder statesman, he did his best to make the promise and the wonder of America become as real in the lives of all his countrymen as it was in his own.

He once said that he was a free man, an American, a United States Senator, and a Democrat, in that order. He was also a great patriot.

Although he will no longer walk among us, Lyndon Johnson's influence on our times, which often seemed so much larger than life, cannot be stolen from us by death. Not only the things that he did, but also the spirit with which he did them, will be remembered long after time heals our sorrow at his leaving.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in tribute to the memory of President Johnson, and as an expression of public sorrow, do hereby direct that the flag of the United States be displayed at half-staff at the White House and on all buildings, grounds, and Naval vessels of the United States for a period of thirty days from the day of his death. I also direct that for the same length of time the representatives of the United States in foreign countries shall make similar arrangements for the display of the flag at half-staff over their Embassies, Legations, and other facilities abroad, including all military facilities and stations.

I hereby order that suitable honors be rendered by units of the Armed Forces under orders of the Secretary of Defense on the day of the funeral.

I do further appoint Thursday, January 25, 1973 to be a National Day of Mourning throughout the United States. I recommend that the people

assemble on that day in their respective places of worship, there to pay homage to the memory of President Johnson. I invite the people of the world who share our grief to join us in this solemn observance.

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

Richard Nixon

[FR Doc.73-1629 Filed 1-23-73;12:40 pm]

EXECUTIVE ORDER 11699

Amending Executive Order No. 11248, Placing Certain Positions in Levels IV and V of the Federal Executive Salary Schedule

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, as amended, section 1 of Executive Order No. 11248 [1] of October 10, 1965, as amended, placing certain positions in level IV of the Federal Executive Salary Schedule, is further amended by deleting "(1) Special Assistant to the Secretary (Congressional Relations), Treasury Department.", and inserting in lieu thereof the following:

(1) Assistant to the Secretary for Legislative Affairs, Department of the Treasury.

Richard Nixon

THE WHITE HOUSE,
January 22, 1973.

[FR Doc.73-1577 Filed 1-22-73;4:08 pm]

[1] 30 FR 12999; 3 CFR, 1964–1965 Comp., p. 349.

EXECUTIVE ORDER 11700

Providing for the Closing of Government Departments and Agencies on Thursday, January 25, 1973

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. All executive departments, independent establishments, and other governmental agencies, including their field services, shall be closed on Thursday, January 25, 1973 as a mark of respect for Lyndon Baines Johnson, the thirty-sixth President of the United States. That day shall be considered as falling within the scope of 5 U.S.C. 6103 (b), and of all statutes so far as they relate to the compensation and leave of employees of the United States.

SECTION 2. The first sentence of Section 1 of this order shall not apply to those offices and installations, or parts thereof, in the Department of State, the Department of Defense, or other departments, independent establishments, and governmental agencies which the heads thereof determine should remain open for reasons of national security or defense or other public reasons.

THE WHITE HOUSE,
January 23, 1973.

Richard Nixon

[FR Doc.73-1628 Filed 1-23-73;12:40 pm]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that one position of Special Assistant to the Administrator and the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, is excepted under Schedule C.

Effective on January 24, 1973, paragraph (r) (3) of § 213.3314 is added as set out below.

§ 213.3314 Department of Commerce.

* * * * *

(r) *National Oceanic and Atmospheric Administration.* * * *

(3) One Special Assistant to the Administrator and the Associate Administrator for Coastal Zone Management.

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

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

[FR Doc. 73-1435 Filed 1-23-73;8:45 am]

PART 213—EXCEPTED SERVICE

National Labor Relations Board

Section 213.3341 is amended to show that one position of Chief Counsel to a Board Member is excepted under Schedule C.

Effective on January 24, 1973, paragraph (h) of § 213.3341 is added as set out below.

§ 213.3341 National Labor Relations Board.

* * * * *

(h) One Chief Counsel to a Board Member.

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

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

[FR Doc.73-1434 Filed 1-23-73;8:45 am]

PART 352—REEMPLOYMENT RIGHTS

Subpart F—Reemployment Rights After Service in the Economic Stabilization Program

Part 352 is amended to add a new subpart governing reemployment rights after service in the Economic Stabilization Program carried out under the Economic Stabilization Act of 1970, as amended. These regulations are authorized by section 212(g) of that Act and are issued under authority delegated to the Civil Service Commission by the Director, Cost of Living Council.

Effective January 23, 1973, Subpart F is added to Part 352 as set out below.

Subpart F—Reemployment Rights After Service in the Economic Stabilization Program

Sec.
352.601 Purpose.
352.602 Eligibility for reemployment rights.
352.603 Consideration for promotion.
352.604 Position to which entitled on reemployment.
352.605 Authority to return employee to his former agency.
352.606 Termination of reemployment rights.
352.607 Appeals to Commission.
352.608 Applicability to employees serving on effective date.

AUTHORITY: Sec. 212(g) of Economic Stabilization Act of 1970 (85 Stat. 751; Public Law 92–210) and Executive Order 11695.

Subpart F—Reemployment Rights After Service in the Economic Stabilization Program

§ 352.601 Purpose.

This subpart governs reemployment rights authorized by section 212(g) of the Economic Stabilization Act of 1970, as amended (85 Stat. 751, Public Law 92–210, the Act) after service in the Economic Stabilization Program carried out under the Act.

§ 352.602 Eligibility for reemployment rights.

(a) *Employees eligible.* Except as provided in paragraph (b) of this section, an employee in the executive branch of the Government (including the United States Postal Service) or the Government of the District of Columbia may be granted reemployment rights under this subpart if he is serving under one of the following types of appointment and is hired under the Economic Stabilization Program without a break of one full workday by transfer, reinstatement, or excepted appointment:

(1) A career or career-conditional appointment in the competitive service;

(2) A career executive assignment or limited executive assignment under Part 305 of this chapter; or

(3) An appointment without a specific time limitation in the excepted service.

(b) *Employees not eligible.* An employee is not eligible for reemployment rights under this subpart if he:

(1) Is serving a trial or probationary period;

(2) Is serving in an obligated position;

(3) Is serving with reemployment rights granted under Subpart B of this part;

(4) Has received a specific notice, with or without an offer of another position, of separation because of reduction in force or otherwise; or

(5) Has submitted a resignation.

§ 352.603 Consideration for promotion.

(a) Entitlement: An employee with reemployment rights under this subpart shall be considered by his former agency for all promotions for which he would be considered were he not serving under the Economic Stabilization Program. A promotion based on this consideration is effective on the date it would have been made if the employee were not absent.

(b) When the position an employee last held in his former agency is regraded upward while he is serving under the Economic Stabilization Program with reemployment rights under this subpart, his former agency shall place him in the regraded position.

§ 352.604 Position to which entitled on reemployment.

(a) *Basic entitlement.* On reemployment, an employee is entitled to be appointed to a position in his former agency in the following order:

(1) To the position to which promoted in absentia under § 352.603, or if that position is not available, to a position at the same or higher grade, in the same occupational field, and in the same geographical area.

(2) To the position he last held in his former agency or, if that position is not available, to a position in the same occupational field and in the same geographical area.

(b) *Reemployment in a different position.* An employee's former agency may reemploy him in a position of higher grade than the one to which he is entitled under paragraph (a) of this section. With the employee's concurrence, he may be reemployed in a different location or in a different position than the one to which he is entitled under paragraph (a) of this section.

(c) *Grade and rate at which returned.* An employee's former agency shall give every possible consideration to retaining the salary equivalent of the grade and rate attained under the Economic Stabilization Program. The agency is strongly encouraged to reemploy the employee at the grade and rate attained under the program. The head of the former agency shall report to the Director of the Cost of Living Council within 30 days of reemployment any instance where current pay is not retained and the reasons.

§ 352.605 Authority to return employee to his former agency.

(a) *Authority.* An employee granted reemployment rights under this subpart may be returned to his former agency

without regard to Parts 351, 752, 771, and 772 of this chapter when this return is—

(1) Without a break in service of one workday or more;

(2) To a position to which reemployment is provided by § 352.604; and

(3) At not less than the rate of pay he would have been receiving in the position he last held in his former agency or in the position to which he was promoted in absentia, if he had not been transferred.

(b) *Date of return.* An employee is to be returned to his former agency with reemployment rights under this subpart only on a date set by the Economic Stabilization agency under consultation with the former agency. Unless the former agency agrees to an earlier date, the date of return shall be set by the Economic Stabilization agency at least 14 calendar days after the former agency is notified of the intention to return the employee. In any event, the employee shall be returned no later than 3 years after the date of his appointment under the Economic Stabilization Program with reemployment rights under this subpart.

§ 352.606 Termination of reemployment rights.

The reemployment rights of an employee terminate if he leaves the Economic Stabilization Program by resignation or by transfer to another agency, including his former agency if the transfer is not made on a date set by the Economic Stabilization agency under § 352.605.

§ 352.607 Appeals to the Commission.

(a) *Right of appeal.* If an employee considers that he has been improperly reemployed or that he has been improperly denied reemployment to which he considers he is entitled under this subpart, he may appeal to the Commission.

(b) *Time limit on appeals.* An appeal under this section must be submitted within 15 calendar days of reemployment or within 15 calendar days after denial of reemployment rights. The Commission may extend these time limits on a showing by an employee that circumstances beyond his control prevented him from filing his appeal on a timely basis.

(c) *Finality of Commission decision.* The Commission shall make the final decision on an employee's reemployment rights under this subpart.

§ 352.608 Applicability to employees serving on effective date.

The provisions of this subpart shall take the place of those in Subpart B of this part for an employee appointed to the Economic Stabilization Program after December 21, 1971, and serving in the program on the effective date of this subpart with reemployment rights granted under Subpart B of this part.

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

[FR Doc.73-1492 Filed 1-22-73;4:01 pm]

Title 7—AGRICULTURE

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 818—IMPORT QUOTAS ON SWEETENED CHOCOLATE, CANDY, AND CONFECTIONERY COVERED BY TSUS ITEMS 156.30 AND 157.10 OF PART 10, SCHEDULE 1, OF THE TARIFF SCHEDULES OF THE UNITED STATES

Sugar Containing Products

Purpose and basis and bases and considerations. This regulation is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended by Public Law 92-138 approved October 14, 1971 (hereinafter referred to as the "Act"). The purpose of this regulation is to implement the limitation on the importation of sweetened chocolate, candy, and confectionery pursuant to paragraph (d) of section 206 of the Act which reads in pertinent part as follows:

> * * * the Secretary shall each year, beginning with the calendar year 1972, limit the quantity of sweetened chocolate, candy and confectionery provided for in items 156.30 and 157.10 of Part 10, Schedule 1, of the Tariff Schedules of the United States which may be entered or withdrawn from warehouse, for consumption in the United States as hereinafter provided. The quantity which may be so entered or withdrawn during any calendar year shall be determined in the fourth quarter of the preceding calendar year and the total amount thereof shall be equivalent to the larger of (1) the average annual quantity of products entered, or withdrawn from warehouse, for consumption under the foregoing items of the Tariff Schedules of the United States for the 3 calendar years immediately preceding the year in which each such quantity is determined or (2) a quantity equal to 5 per centum of the amount of sweetened chocolate and confectionery of the same description of U.S. manufacture sold in the United States during the most recent calendar year for which data are available. The total quantity to be imported under this subsection may be allocated to countries on such basis as the Secretary determines to be fair and reasonable, taking into consideration the past importations or entries from such countries. For purposes of this subsection the Secretary shall accept statistical data of the U.S. Department of Commerce as to the quantity of sweetened chocolate and confectionery of U.S. manufacture sold in the United States.

In accordance with the rule making requirements of 5 U.S.C. 553, there was published in the FEDERAL REGISTER on November 28, 1972, on page 25171 a notice of proposed rule making for the issuance of a regulation to establish import quotas on sweetened chocolate (other than in bars or blocks of 10 pounds or more each), candy and confectionery for the calendar year 1973. Written data, views, or arguments for consideration in connection with the proposed regulation were to be submitted no later than December 20, 1972. There were no comments received regarding the proposal.

The average annual quantity of products entered, or withdrawn from warehouse, for consumption under the Tariff Schedules of the United States (TSUS) items 156.30 and 157.10 for the calendar years 1969, 1970, and 1971 amounted to 143,772,997 pounds. That quantity was determined from data published by the Bureau of Census, U.S. Department of Commerce, in the annual reports FT 246 under the TSUSA reporting numbers 156.3000, 156.3020, 156.3040, 157.1020, and 157.1040.

The quantity of sweetened chocolate and confectionery of U.S. manufacture sold in the United States in 1971 amounted to 3,974,618,000 pounds as shown in "Confectionery Manufacturers' Sales and Distribution 1971" published by the Bureau of Domestic Commerce, U.S. Department of Commerce. Five percent of that quantity amounts to 198,730,900 pounds.

Accordingly, the quantity of sweetened chocolate, candy, and confectionery which may be imported for consumption under TSUS items 156.30 and 157.10 during the calendar year 1973 shall be limited to 198,730,900 pounds which is the larger of the two alternatives as provided in section 206(d) of the Sugar Act, i.e., the 1969-71 average imports or 5 percent of 1971 confectionery sales.

Pursuant to section 206(d) of the Act the total quantity permitted to be imported may be allocated to countries on such basis as the Secretary determines to be fair and reasonable taking into consideration the past importations or entries from such countries. Of the total quota established herein for 1973, 21,680,000 pounds is reserved solely for the importation of sweetened chocolate for other than consumption at retail as candy or confectionery (TSUSA item 156.3040) pursuant to section 22 of the Agricultural Adjustment Act. The remaining portion amounting to 177,050,900 pounds is established as a global quota and made available for importation from all countries as a group on a first come, first served basis. The import limitation under the global quota established herein for 1973 is about 30 percent greater than imports of such products in 1971 and 28 percent greater than such average annual imports from 1969 through 1971. A global quota has been in effect for 1972, the initial year of confectionery quotas, and through November 25, just under 119 million pounds has been imported. This amounted to 68 percent of the 1972 quota with 90 percent of the year gone. This compares with imports of 118 and 112 million pounds through November in 1970 and 1971, respectively. In 1970 and 1971 the annual imports were 127 and 120 million pounds, respectively.

In view of 1972 imports as of the November 25, 1972, figures, and imports in past years, it is likely that total 1973 import limits will not be approached by actual imports. On the assumption that imports will not reach the liberal import limits, a global quota will provide the least impediment to commerce and to the play of economic factors and the least burden on Customs Service. A global quota will also eliminate the possibility

of limiting imports from some countries when there is little likelihood that the total quota will be filled.

In the remote event that the global quota is filled and countries which ship late in the year are prevented from shipping their normal amounts, a portion of the global quota, representing 30 percent, is reserved for entry during the last quarter of the year. Recent import history indicates about 30 percent of such imports normally occur during the last quarter of each year.

The provision to exempt each shipment of articles with an aggregate value of not more than $25 from import quotas is necessary so that tourists will be able to bring in small quantities of candy and confectionery for personal use.

The regulation provides that a quantity of the quota equivalent to the quotas for "sweetened chocolate for other than consumption at retail as candy or confectionery" established pursuant to section 22 of the Agricultural Adjustment Act, as amended, shall be reserved solely for the importation of such article subject to such section 22 quotas, under licenses issued pursuant to regulations of the Administrator, Foreign Agricultural Service, U.S. Department of Agriculture.

Part 818 of Chapter VIII, Subchapter B, is revised to read as follows:

Sec.
818.10 Confectionery quotas for foreign countries.
818.11 Import requirements.
818.12 Restrictions on importation.
818.13 Revision of quota.
818.14 Delegation of authority.

AUTHORITY: Sec. 206, 403; 61 Stat. 927, as amended, 932, as amended; 7 U.S.C. 1116, 1153.

§ 818.10 Confectionery quotas for foreign countries, 1973.

(a) For the calendar year 1973, the quantity of sweetened chocolate, candy, and confectionery provided for in Items 156.30 and 157.10 of Part 10, Schedule 1, of the Tariff Schedules of the United States which may be entered, or withdrawn from warehouse, for consumption in the United States and Puerto Rico is 198,730,900 pounds. Of the total quota, 21,680,000 pounds are reserved solely for the importation of sweetened chocolate for other than consumption at retail as candy or confectionery (TSUSA item 156.3040). This quantity is subject to quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended, and as set forth in items 950.15 and 950.16 of Part 3 of the appendix to TSUS, which may be imported only under licenses issued pursuant to regulations of the Administrator, Foreign Agricultural Service, U.S. Department of Agriculture as follows: Ireland—13,200,000 (9,450,000 under TSUS 950.15 and 3,750,000 under TSUS 950.16); United Kingdom—8,380,000 (7,450,000 under TSUS 950.15 and 930,000 under TSUS 950.16) and Netherlands—100,000 (all under TSUS 950.15). Of the remaining quantity of 177,050,900 pounds (198,730,900–21,680,000) a quantity not to exceed 123,935,630 pounds may be entered or withdrawn from warehouse for consumption in the United States and Puerto Rico on or before September 30, 1973.

(b) The quota established by paragraph (a) of this section shall not apply to articles with an aggregate value of $25 or less in any shipment.

§ 818.11 Import requirements.

Articles subject to quota limitations pursuant to § 818.10 shall be entered on a first-come, first-served basis under the control of the Bureau of Customs, except articles subject to quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended.

§ 818.12 Restrictions on importations.

Subject to the exception in paragraph (b) of § 818.10 all persons are prohibited from entering or withdrawing from warehouse, for consumption in the United States and Puerto Rico any article provided for in the TSUS items 156.30 and 157.10 after the applicable quotas set forth in paragraph (a) of § 818.10 have been filled.

§ 818.13 Revision of quotas.

The quota established under this order may be revised to reflect the substitution of revised or corrected data used in the quota determination.

§ 818.14 Delegation of authority.

The Director of the Sugar Division (or any person in such division designated by the Director), Agricultural Stabilization and Conservation Service of the Department, is hereby authorized to act on behalf of the Secretary in administering §§ 818.10 through 818.12 except as otherwise provided for in §§818.10 and 818.11.

Effective date. This action establishes a U.S. import quota on sweetened chocolate, candy and confectionery for the calendar year 1973. In order to promote orderly marketing it is essential that all persons selling and importing such products be able as soon as possible to make plans based on the new import quota. Therefore, it is hereby determined and found that compliance with the effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable and contrary to the public interest and this amendment shall be effective on January 19, 1973.

Signed at Washington, D.C., on January 19, 1973.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-1163 Filed 1-19-73;12:05 pm]

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

[Lemon Reg. 268, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period January 14–20, 1973. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

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

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 568 (38 FR 1378). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 910.868 (Lemon Regulation 568 (38 FR 1378)) is hereby amended to read as follows:

§ 910.868 Lemon Regulation 568.

* * * * *

(b) *Order.* (1) * * * 225,000 cartons.

* * * * *

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

Dated: January 18, 1973.

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

[FR Doc.73-1430 Filed 1-23-73;8:45 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

PART 2—RULES OF PRACTICE

PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BY-PRODUCT MATERIAL

PART 40—LICENSING OF SOURCE MATERIAL

PART 70—SPECIAL NUCLEAR MATERIAL

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

Miscellaneous Amendment

A rule changing the title "hearing examiner" to "administrative law judge" was published by the U.S. Civil Service Commission in the FEDERAL REGISTER on August 19, 1972 (37 FR 16787).

The Atomic Energy Commission's regulations in 10 CFR Parts 1, 2, and 4 contain numerous references to the terms "Office of Hearing Examiners", "hearing examiner", "hearing examiners", and "Chief Hearing Examiner".

These references should be changed to conform with the action of the U.S. Civil Service Commission on August 19, 1972, and to be consistent with other regulatory agencies in using the title "administrative law judge".

The Commission intends to revise Form AEC–741. Among the minor changes the title will be changed from "Nuclear Material Transfer Report" to "Nuclear Material Transaction Report". The amendments of Parts 30, 40, 70, and 150 reflect the new title of Form AEC–741.

Inasmuch as the amendments set forth below relate to agency management and organization, correction, and minor procedural matters, notice of proposed rule making and public procedure thereon are not required by section 553 of title 5 of the United States Code.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 1, 2, 4, 30, 40, 70, and 150 are published as a document subject to codification, to be effective on January 24, 1973.

1. Parts 1, 2, and 4 of the Commission's regulations are amended by deleting the terms "Office of Hearing Examiners", "hearing examiner", "hearing examiners", and "Chief Hearing Examiner" where they appear and substituting therefor, respectively, the terms "Office of Administrative Law Judges", "administrative law judge", "administrative law judges", and "Chief Administrative Law Judge".

2. Parts 30, 40, 70, and 150 are amended by deleting the term "Nuclear Material Transfer Report", where it appears in §§ 30.55, 40.64, 70.54, 150.16, 150.17, and 150.19 and substituting therefor "Nuclear Material Transaction Report".

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 10th day of January 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73–1459 Filed 1–23–73;8:45 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	5	Jan. 15, 1973
New York	5	Do.
Philadelphia	5	Do.
Cleveland	5	Do.
Richmond	5	Do.
Atlanta	5	Do.
Chicago	5	Do.
St. Louis	5	Do.
Minneapolis	5	Do.
Kansas City	5	Do.
Dallas	5	Do.
San Francisco	5	Do.

§ 201.52 Advances to member banks under section 10(b).

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	5½	Jan. 15, 1973
New York	5½	Do.
Philadelphia	5½	Do.
Cleveland	5½	Do.
Richmond	5½	Do.
Atlanta	5½	Do.
Chicago	5½	Do.
St. Louis	5½	Do.
Minneapolis	5½	Do.
Kansas City	5½	Do.
Dallas	5½	Do.
San Francisco	5½	Do.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston [1]	7	Jan. 15, 1973
New York	7	Do.
Philadelphia	7	Do.
Cleveland	7	Do.
Richmond [1]	7	Do.
Atlanta [1]	7	Do.
Chicago [1]	7	Do.
St. Louis [1]	7	Do.
Minneapolis [1]	7	Do.
Kansas City [1]	7	Do.
Dallas [1]	7	Do.
San Francisco	7	Do.

[1] A rate of 5 percent was approved, effective Jan. 15, 1972, on advances to nonmember banks, to be applicable in special circumstances resulting from implementation of changes in Regulation J (see 37 FR 12714).

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, January 12, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73–1353 Filed 1–23–73;8:45 am]

Title 14—AERONAUTICS

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 73–EA–1; Amdt. 39–1588]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation regulations so as to amend AD 69–5–2 applicable to the Fairchild Hiller type FH–227 airplanes. Subsequent to the adoption of AD 69–5–2, there have been reports of cracks in the No. 1 inspection door openings which are of greater length than those which prompted the original AD. This permits a conclusion of a faster rate of propagation in these cracks than initially predicted. Thus this

amendment will change the time of inspection of the No. 1 opening downward to 700 hours between inspections.

In view of the criticality of the deficiency, notice and public procedure hereon are impractical and cause exists for making the AD 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 FR 13697) § 39.13 of the Federal Aviation regulations is amended so as to amend AD 69-5-2 as follows:

1. In paragraph (a), after the date July 12, 1967, insert:

with the exception of the compliance times indicated in paragraph D. (2) as applied to the No. 1 Inspection Door Openings of section 2-H, No. 2 Inspection Procedure (X-ray)—Outer Panels.

2. Reletter paragraphs (b) and (c) as (d) and (e) respectively and insert new paragraphs (b) and (c) to read as follows:

(b) Within the next 100 hours' time in service, after the accumulation of 8,000 hours' time in service, unless already accomplished within the last 600 hours' time in service and thereafter at intervals not to exceed 700 hours' time in service, inspect the No. 1 Inspection Door Openings in accordance with paragraphs (1), (2), (3), (4), (11), and (12) of section 2-H No. 2 Inspection Procedure (X-ray)—Outer Panels of Fairchild Service Bulletin 51-1.

(c) For those aircraft incorporating Fairchild Service Bulletin 51-1, Appendix No. 1 dated January 5, 1973, and later FAA approved changes, the inspection interval for aircraft without cracks remains at 1,200 hours. If any cracks are discovered subsequent to repair installation, the inspection interval will be that specified in paragraph (b) above.

This amendment is effective January 31, 1973.

(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 January 17, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.73-1421 Filed 1-23-73;8:45 am]

[Airworthiness Docket No. 72-WE-23-AD; Amdt. 39-1587]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes Model 269 Series Helicopter

Hughes Tool Co., Aircraft Division, has determined that a mandatory service life must be placed on the tail boom support struts, P/N 269A2015-5 and P/N 269A2015-11, installed in Model 269C helicopters to insure continued compliance with fatigue strength requirements of the Civil Air Regulations. The Federal Aviation Administration concurs with this determination. In addition, operators have experienced instances of deformation and cracking of the several lugs located on the tail boom support structure on Model 269 Series Helicopters. Inadequate support of the helicopter structure during removal of the tail boom and support struts, combined with service loads, has caused the damage. Therefore, an airworthiness directive is being issued to impose a 10,700-hour service life on certain tail boom support struts and require periodic inspection of the tail boom support structure.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

HUGHES. Applies to Models 269A, 269A-1, 269B, and 269C Helicopters all serial numbers certificated in all categories.

To insure continued airworthiness of the tail boom support structure and to provide for early detection of possible damage caused by improper maintenance techniques and service loads accomplish the following:

For all Models 269A, 269A-1, 269B, and 269C Helicopters, within 100 hours' time in service from the effective date of this airworthiness directive unless already accomplished within the last 100 hours and at periods not to exceed 200 hours' time in service from the last inspection, conduct a visual and dye penetrant inspection of the tail boom center attach fitting P/N 269A2324 or P/N 269A2324-7, tail boom support struts P/N 269A2015 or P/N 269A2015-9 for Models 269A, 269A-1, and 269B, and P/N 269A2015-5 or P/N 269A2015-11 for Model 269C and center frame aft cluster fittings on fuselage frame assembly P/N 269A2230 and remove from service any tail boom support strut or end fitting, center frame aft cluster fitting or cluster fitting found to have cracks or other damage and replace with serviceable components in accordance with the methods and techniques specified in Hughes Tool Co., Aircraft Division Service Information Notice No. N-82.1, dated November 14, 1972, or later FAA-approved revisions, or an equivalent installation approved by the Chief, Aircraft Engineering Division, FAA Western Region.

For the Model 269C, prior to accumulation of 10,700 total hours' time in service remove P/N 269A2015-5 or P/N 2692015-11 struts, marking them permanently and conspicuously to avoid their inadvertent return to service, and replace with new or serviceable struts, P/N 269A2015-5 or P/N 269A2015-11, having less than 10,700 total hours' time in service.

Equivalent methods of compliance must be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective January 25, 1973.

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

Issued in Los Angeles, Calif., on January 12, 1973.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.73-1420 Filed 1-23-73;8:45 am]

[Airspace Docket No. 72-EA-123]

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

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of the Federal Aviation regulations so as to alter the Blackstone, Va., transition area (38 FR 435).

The instrument approach procedure for Blackstone Army Air Field has been altered to delete the nighttime criteria, thereby negating a need for the transition area between sunset and sunrise.

Since the foregoing is a reduction in the controlled airspace and therefore the rule is less restrictive, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t. February 1, 1973, as follows:

1. Amend § 71.181 of Part 71, Federal Aviation regulations, by adding the following to the description of the Blackstone, Va., 700-foot floor transition area:

This transition area is effective from sunrise to sunset, daily. Following the phrase, excluding the portion with R-6602.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on January 8, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.73-1423 Filed 1-23-73;8:45 am]

[Airspace Docket No. 72-WE-46]

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

Designation of Transition Area

On December 9, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 26342) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would establish a new transition area at Lodi, Calif.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted, as set forth below, subject to the following change:

Delete FEDERAL REGISTER citation "(37 FR 2143)" and substitute "(38 FR 435)".

Effective date. This amendment shall be effective 0901 G.m.t., March 29, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 48 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on January 12, 1973.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.181 (38 FR 435) the following transition area is added:

LODI, CALIF.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Linds Airport, Calif. (latitude 38°12'11" N., longitude 121°16'03" W.) and within 2.5 miles each side of the Linden, Calif., VORTAC 303° radial extending from the 3-mile-radius area to 10.5 miles northwest of the VORTAC.

[FR Doc.73-1419 Filed 1-23-73;8:45 am]

[Airspace Docket No. 72-NW-09]

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

Alteration of Transition Area; Correction

On December 28, 1972, FR Doc. 72-22375 was published in the FEDERAL REGISTER (37 FR 28609). This document altered the description of the Redmond, Oreg., transition area. A review of the description of the transition area revealed that the radius of the arc was inadvertently given in nautical miles. Accordingly, action is taken herein to correct this dimension.

Since the arc was depicted correctly in the notice of proposed rule making, this change is editorial in nature and imposes no additional burden on any person; notice and public procedure hereon is unnecessary.

In view of the foregoing, FR Doc. 72-22375 (37 FR 28609) is amended effective immediately, by deleting the phrase "* * * arc of a 32-mile radius * * *" and inserting therefor "* * * an arc of a 37-mile radius * * *"

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

Issued in Seattle, Wash., on January 15, 1973.

C. B. WALK, JR.,
Director, Northwest Region.

In § 71.181 (38 FR 435) the description of the Redmond, Oreg. transition area is amended as follows:

In line 3, after, "* * * 5 miles south of the VORTAC," insert, "within 4 miles each side of the Redmond VORTAC 014° radial, extending from 15 miles north of the VORTAC to 35 miles north." In addition, amend by adding to the end of the description, "* * * and that airspace north of Redmond VORTAC bounded on the west by the east side of V25, and on the north by an arc of a 32 mile radius arc centered on the Redmond VORTAC, and on the northeast by the northwest edge of V536."

[FR Doc.73-1422 Filed 1-23-73;8:45 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Thiabendazole

The Commissioner of Food and Drugs has evaluated a new animal drug application (42-910) filed by Moorman Mfg. Co., Quincy, Ill. 62301, proposing the safe and effective use of thiabendazole as an anthelmintic in cattle when administered in feeding blocks. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended in § 135c.7 by adding new paragraphs (c)(3) and (e)(4) as follows:

§ 135c.7 Thiabendazole.

* * * * *

(c) *Sponsor.* * * *

(3) See Code No. 058 in § 135.501(c) of this chapter for the sponsor of the usage provided for by paragraph (e)(4) of this section.

* * * * *

(e) *Conditions of use.* * * *

(4) It is administered to cattle on pasture or range accustomed to mineral protein block feeding as follows:

(i) For control of infections of gastrointestinal roundworms (members of the genera *Trichostrongylus, Haemonchus, Ostertagia* and *Cooperia* species) when mineral protein block containing 3.3 percent thiabendazole is consumed at the recommended level of 0.11 pounds per 100 pounds of body weight per day for 3 days.

(ii) Milk taken from animals during treatment and within 96 hours (eight milkings) after the latest treatment must not be used for food.

(iii) Do not treat cattle within 3 days of slaughter.

(iv) For a satisfactory diagnosis, a microscopic fecal examination should be performed by a veterinarian or diagnostic laboratory prior to worming.

(v) Cattle maintained under conditions of constant worm exposure may require retreatment within 2 to 3 weeks. Animals that are severely parasitized, sick, or off feed should be isolated and a veterinarian consulted for advice concerning treatment.

Effective date. This order shall be effective on January 23, 1973.

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

Dated: January 17, 1973.

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

[FR Doc.73-1438 Filed 1-23-73;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7255]

PART 301—PROCEDURE AND ADMINISTRATION

Inspection by Department of Agriculture of Certain Income Tax Returns

Pursuant to section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)) as amended by section 3(c) of the Interest Equalization Tax Act (Public Law 88-563, 78 Stat. 844), section 601(a) of the Excise Tax Reduction Act of 1965 (Public Law 89-44, 79 Stat. 153), and section 4(a) of the Act of November 2, 1966 (Public Law 89-713, 80 Stat. 1109), and the Executive Order 11697 (38 FR 1723), signed this date concerning inspection by the Department of Agriculture of income tax returns made under the Internal Revenue Code of 1954 of persons having farm operations, the regulations on procedure and administration (26 CFR Part 301) are amended by adding immediately after § 301.6103(a)-107 the following:

§ 301.6103(a)-108 Inspection by Department of Agriculture of income tax returns made under the Internal Revenue Code of 1954 of persons having farm operations.

(a) *In general.* Pursuant to the provisions of section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a)), as amended by section 3(c) of the Interest Equalization Tax Act (Public Law 88-563; 78 Stat. 844), section 601(a) of the Excise Tax Reduction Act of 1965 (Public Law 89-44, 79 Stat. 153), and section 4(a) of the Act of November 2, 1966 (Public Law 89-713, 80 Stat. 1109), and the Executive orders issued thereunder, and in the interest of the internal management of the Government, income tax returns made under such Code for taxable years beginning on or after January 1, 1967, of persons having farm operations shall be open to inspection to the extent readily available in the Internal Revenue Service (for the purpose of obtaining data as to the farm operations of such persons) by the Department of Agriculture as may be needed for statistical purposes only.

(b) *Applications.* Each application for inspection shall be valid for the inspection of returns relating to not more than one taxable year. Such application shall be in writing signed by the Secretary of Agriculture and addressed to the Secretary of the Treasury. The application shall be in such form and manner as may be prescribed by the Commissioner of Internal Revenue but shall state—

(1) The employees of the Department of Agriculture designated by the Secretary of Agriculture who will make the inspection or who will have access to the data made available;

(2) The specific tax data needed and how such data relates to the statistical goals of the Department of Agriculture; and

(3) The procedures to be followed by the Department of Agriculture so as to guarantee the security of the data made available.

(c) *Data available.* The Secretary of the Treasury, or any officer or employee of the Department of the Treasury with the approval of the Secretary, may furnish the Department of Agriculture (for the purpose of obtaining data as to the farm operations of such persons) with the names, addresses, taxpayer identification numbers, or any other data on such returns or may make the returns available for inspection and the taking of such data as the Secretary of Agriculture may designate. Inspection of such returns shall be in accordance with permission granted by the Secretary of the Treasury pursuant to this section. Upon receipt of a request for inspection approved by the Secretary of the Treasury, any officer or employee of the Internal Revenue Service duly authorized by the Commissioner of Internal Revenue may make such returns available for inspection in an office of the Internal Revenue Service by any duly authorized officer or employee of the Department of Agriculture or may make the data on such returns available to such Department.

(d) *Confidentiality of data.* (1) Any data obtained by the Department of Agriculture from its inspection of tax return data shall be held confidential except that such data may be published or disclosed in statistical form, provided such publication does not disclose, directly or indirectly, the name or address of any taxpayer.

(2) The Department of Agriculture may, however, use the names of taxpayers furnished them to survey such taxpayers: *Provided,* That any data obtained from such a survey shall be held confidential except that such data may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the name or address of any taxpayer.

(3) No inspection shall be permitted unless the Commissioner of Internal Revenue is satisfied that the security measures employed by the Department of Agriculture are adequate, that only those employees (designated by the Secretary of Agriculture) who have a need for tax return data for statistical purposes have access to such data, and that there is maintained a secured area for storing data and provision for destruction of the data when it is no longer needed.

Because this Treasury decision constitutes a general statement of policy and establishes rules of Departmental practice and procedure, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

This Treasury decision shall be effective on January 23, 1973.

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

Approved: January 17, 1973.

RICHARD M. NIXON,
The White House.

[FR Doc.73-1426 Filed 1-23-73;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter XVII—Office of Emergency Preparedness

PART 1710—FEDERAL DISASTER ASSISTANCE

Private, Nonprofit Medical Care Facilities

On June 9, 1972, the Office of Emergency Preparedness published revisions to 32 CFR Part 1710, in the FEDERAL REGISTER (37 FR 11564) which provided for the repair, reconstruction, or replacement of certain private medical care facilities.

Included in those revisions was a requirement that the interested private organization submit assurances that it had interest in the sites sufficient to assure for a period of not less than 50 years undisturbed use and possession for the purpose of the construction and operation of the facility. Subsequent discussions with experts in the field of hospital administration and the Department of Health, Education, and Welfare reveal that the concept of medical care is changing so rapidly that, in some cases, a hospital designed for current requirements may be obsolete in a period much less than 50 years, depending on the type of medical care which is to be offered. Therefore, it has been determined that the requirement set forth in 32 CFR Part 1710, § 1710.8(h)(3)(i), should be flexible enough to assure that the best interests of the public are served.

Accordingly, the Office of Emergency Preparedness is issuing a revision to 32 CFR Part 1710, which authorizes the OEP Director, when in the public interest and on a case-by-case basis, to approve a lesser time period than the 50 years presently set forth in § 1710.8(h)(3)(i).

Since the subject procedures are required immediately to allow interested organizations to proceed with restoration of essential medical care facilities, I find it impractical and contrary to the public interest to engage in public rule making actions and to postpone the time when those procedures may be used. Therefore, this revision shall become effective on January 24, 1973. All interested parties, however, are invited to submit written comments with respect to the revision, which may be later revised in the light of such comments.

Comments should be filed in triplicate within 15 days after publication of the regulations at the Disaster Programs Office, Office of Emergency Preparedness, Room 320, 604 17th Street NW., Washington, DC 20504.

Accordingly, § 1710.8(h)(3)(i), 32 CFR, is amended to read as follows:

§ 1710.8 **Project applications.**

* * * * *

(h) * * *

(3) * * *

(i) In addition to owning the facility, that it has or will have a title in fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for a reasonable period of time undisturbed use and possession for the purpose of the construction and operation of the facility. An assurance of such continued operation for a period of 50 years will fulfill this requirement. Any assurance for a lesser period of time must be submitted to the OEP Director for approval. Such approval will be granted only when such a lesser time period is found to be in the public interest.

* * * * *

Dated: January 18, 1973.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.73-1449 Filed 1-23-73;8:45 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1434]

HONEY

Notice of Determinations Regarding 1973 Crop

The Secretary of Agriculture is preparing to make determinations with respect to a loan and purchase program for the 1973 crop of honey and the regulations to carry out the program. The determinations relate to:

a. Loan and purchase rates, color differentials, discounts for quality, and type of storage.

b. Loan maturity date and purchase availability date.

c. Detailed operating provisions to carry out the program.

The above determinations are to be made pursuant to the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1421 et seq.) and the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714 et seq.).

a. *Loan and purchase program, color differentials, and discounts for quality and type of storage.* Title II of the Agricultural Act of 1949, as amended, authorizes and directs the Secretary to make available through loans, purchases, and other operations, support to producers of honey at a level which is not in excess of 90 percent nor less than 60 percent of the parity price thereof. Loan and purchase rates based on color, quality factors, and type of storage are used to reflect marketing features and conditions under which honey is merchandised. Section 401(b) of the Act requires that, in determining a loan and purchase rate in excess of the minimum level prescribed for honey, consideration must be given to the supply of the commodity in relation to the demand thereof, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired under a loan and purchase program, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

b. *Loan maturity date and purchase availability date.* The loan maturity date and purchase availability date will be reviewed for 1973. For the 1972 program, the loan maturity date and the purchase availability date was June 30, 1973.

c. *Detailed operating provisions.* Detailed operating provisions necessary to carry out the loan and purchase program on honey are also being reviewed for 1973. Provisions of this kind may be found in the regulations providing terms and conditions for the current loan and purchase program in Part 1434 of Title 7 of the Code of Federal Regulations.

Prior to making the foregoing determinations and issuing related regulations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Secretary, Commodity Credit Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

In order to be sure of consideration, all submissions must be received not later than February 24, 1973. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 202–W, Administration Building, 14th and Independence Avenue SW., Washington, D.C.

Signed at Washington, D.C., on January 16, 1973.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.73–1464 Filed 1–23–73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 15]

FLOUR

Identity Standard: Proposal To List α-Amylase Obtained From *Aspergillus Oryzae* as Optional Ingredient and To Require Label Declaration of All Optional Ingredients

Notice is given that a petition has been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that the standard of identity for flour, white flour, wheat flour, plain flour (21 CFR 15.1), and whole wheat flour, graham flour, entire wheat flour (21 CFR 15.80) be amended to permit the optional addition of harmless preparations of α-amylase obtained from *Aspergillus oryzae* alone or in a suitable harmless carrier as a dough conditioner provided that the quantity of any such carrier shall be no greater than reasonably necessary to effect a uniform mixture of the α-amylase with the flour.

Grounds given in the petition in support of the proposal are that the addition of α-amylase obtained from *Aspergillus oryzae* to flours in the flour mill provides for greater efficiency, convenience, and control and that, since the enzyme is presently permitted in bread, it is anticipated that flour containing the enzyme could be used by bakers without their having to add the enzyme at the bakery level.

The Commisisoner of Food and Drugs is aware that there is significant consumer interest that the labels of standardized foods bear complete information of the ingredients contained in the foods. In the absence of legal authority to require that the labels bear the names of mandatory ingredients, the Commissioner intends to amend the definitions and standards of identity of foods by setting into motion as rapidly as possible the provisions of section 401 of the Federal Food, Drug, and Cosmetic Act to require label declaration of all optional ingredients. In accordance with the provisions set forth in 21 CFR 3.88(b), as published in the FEDERAL REGISTER of March 10, 1972 (37 FR 5120), the Commissioner proposes on his own initiative that the common names of all optional ingredients used in flours (§ 15.1), self-rising flour (§ 15.50), whole wheat flour (§ 15.80), and enriched farina (§ 15.140) be declared on the label. In accordance with the provisions of section 403 of the Act, spices, flavorings, and colorings may be designated as such without naming each. The proposal, if adopted, would also apply to all standards appropriately cross-referenced to §§ 15.1, 15.50, 15.80, and 15.140. It would not apply to the standards for durum flour (§ 15.40), crushed wheat (§ 15.110), cracked wheat (§ 15.120), farina (§ 15.130), and semolina (§ 15.150), which permit no optional ingredients.

The petitioner proposed that the label on the flour which contains the α-amylase bear the statement "α-amylase obtained from *Aspergillus oryzae* added as a dough conditioner". However, the regulation as proposed by the Commissioner, if adopted, would require that the list of ingredients declared on the label include "α-amylase obtained from *Aspergillus oryzae*" when it is used.

Therefore, it is proposed that §§ 15.1 and 15.80 (21 CFR 15.1, 15.80) be amended to permit the optional addition of harmless preparations of α-amylase obtained from *Aspergillus oryzae* alone or in a suitable harmless carrier provided that the quantity of such carrier is no greater than that reasonable necessary to effect a uniform mixture of the α-amylase with the flour.

Due to cross-referencing, the adoption of the amendment to the standards for flour (§ 15.1) and whole wheat flour (§ 15.80) to permit the optional use of harmless preparations of α-amylase obtained from *Aspergillus oryzae* alone or in a suitable harmless carrier would have the effect of making such ingredient a permitted ingredient in §§ 15.10, 15.20, 15.30, 15.70, 15.75, 15.90, and 15.100.

As self-rising flour (§ 15.50) is a mixture of flour and other ingredients, the adoption of the amendment to the standard for flour (§ 15.1) to permit the optional use of harmless preparations of α-amylase obtained from *Aspergillus oryzae* alone or in a suitable harmless carrier would have the effect of making such ingredient a permitted ingredient in self-rising flour (§ 15.50).

Due to cross-referencing, the permitted use of harmless preparations of α-amylase obtained from *Aspergillus oryzae* alone or in a suitable harmless carrier in self-rising flour (§ 15.50) would have the effect of making such ingredient a permitted ingredient in enriched self-rising flour (§ 15.60).

It is further proposed that §§ 15.1, 15.50, 15.80, and 15.140 be amended to require that the common names of all optional ingredients used in the food be declared on the label as required by the applicable sections of 21 CFR Part 1.

The standard for self-rising flour (§ 15.50) would be so amended that all optional ingredients permitted in the flour from which the self-rising flour is made would be considered to be optional ingredients of the self-rising flour and would be subject to label declaration.

Due to cross-referencing, adoption of the proposed amendment to the standards for flour (§ 15.1), self-rising flour (§ 15.50), and whole wheat flour (§ 15.80) will have the effect of requiring label declaration of all optional ingredients in the case of §§ 15.10, 15.20, 15.30, 15.60, 15.70, 15.75, 15.90, and 15.100, as applicable.

Interested persons may, on or before March 26, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 13, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73–1437 Filed 1–23–73;8:45 am]

DEPARTMENT OF TRANSPORTION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73–SW–3]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations to designate a 700-foot transition area at El Campo, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received on or before February 23, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation regulations as hereinafter set forth.

In § 71.181 (38 FR 435), the following transition area is added:

EL CAMPO, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the El Campo Airpark (latitude 29°16'00" N., longitude 96°19'30" W.).

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at the El Campo Airpark, El Campo, Tex.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Fort Worth, Tex., on January 16, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73–1425 Filed 1–23–73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73–SW–2]

CONTROL ZONES

Revocation, Designation, and Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations to delete the Fort Worth, Tex. (Greater Southwest International Dallas-Fort Worth Field), control zone, designate the Dallas-Fort Worth, Tex. (Regional Airport), control zone, and alter the Dallas, Tex. (Love Field) (NAS Dallas), and (Redbird Airport) control zones.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received on or before February 23, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation regulations as hereinafter set forth.

(1) In § 71.171 (38 FR 351), the Fort Worth, Tex. (Greater Southwest International Dallas-Fort Worth Field), control zone is deleted.

(2) In § 71.171 (38 FR 351), the following control zone is added:

DALLAS-FORT WORTH, TEX., REGIONAL AIRPORT

Within a 5-mile radius of Dallas/Fort Worth Regional Airport (latitude 32°53'53" N., longitude 97°02'24" W.); within 2.5 miles west and 3.5 miles east of the runway 17R/35L ILS localizer courses extending from the 5-mile-radius zone to the OMs, and within 2.5 miles each side of the runway 31 ILS localizer course extending from the 5-mile-radius zone to the OM.

(3) In § 71.171 (38 FR 351), the following control zones are altered:

DALLAS, TEX. (LOVE FIELD)

Delete "and within 2 miles each side of the Love Field No. 2 ILS localizer southeast course, extending from the arc of a 5-mile-radius circle centered at Love Field to the Runway 31L OM (latitude 32°46'39" N., longitude 96°46'28" W.)." and substitute therefor "within 2 miles each side of the Love Field runway 31L ILS localizer southeast course, extending from the Love Field 5-mile-radius zone to the OM; and excluding that airspace within the Dallas-Forth Worth, Tex. (Regional Airport) control zone."

DALLAS, TEX. (NAS DALLAS)

Delete the description of the control zone and amend it to read: "Within a 6-mile radius of NAS Dallas (latitude 32°44'00" N., longitude 96°58'05" W.); within a 5-mile radius of Redbird Airport (latitude 32°40'50" N., longitude 96°52'00" W.); excluding the portion within the Dallas-Forth Worth, Tex. (Regional Airport), and Dallas, Tex. (Love

Field), control zones; and excluding the portion east of a line from latitude 32°37'00" N., longitude 96°56'00" W. to latitude 32°39'35" N., longitude 96°54'15" W. to latitude 32° 48'00" N., longitude 96°53'45" W."

DALLAS, TEX. (REDBIRD AIRPORT)

Delete "excluding the portion west of a line from the intersection of the Redbird Airport 5-mile-radius zone and the arc of an 8-mile-radius circle centered at NAS Dallas (latitude 32°44'00" N., longitude 96°58'05" W.), southwest of Redbird Airport, through latitude 32°39'35" N., longitude 96°54'15" W., to longitude 96°53'30" W. and the arc of a 5-mile-radius circle centered at Love Field (latitude 32°51'00" N., longitude 96°50'50" W.) southwest of Love Field." and substitute therefor "excluding the portion west of a line from latitude 32°37'00" N., longitude 96°56'00" W., to latitude 32°39'35" N., longitude 96°54'15" W., to latitude 32°48'00" N., longitude 96°53'45" W."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on January 16, 1973.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.73-1424 Filed 1-23-73;8:45 am]

FARM CREDIT ADMINISTRATION

[12 CFR Parts 613, 614, 619]

FARM CREDIT SYSTEM

Notice of Proposed Rule Making

Notice is hereby given that the Farm Credit Administration, by its Federal Farm Credit Board, has under consideration a proposed amendment of its regulations as set forth below in tentative form. These amendments, for purposes of nonfarm home lending only, would (1) redefine a rural area, (2) provide for the establishment of standards of rural subdivision design, (3) delete the provision for bench marks on rural residences, (4) provide for the identification of housing loans as farm loans under certain circumstances, and (5) delete the definition of a commercial subdivision. Prior to final adoption of such amendments, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (10 copies) no later than March 1, 1973, to E. A. Jaenke, Governor, Farm Credit Administration, Washington, D.C. 20578. Copies of all communications received will be available for examination by interested persons in the Office of the Director of Information, Farm Credit Administration.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising paragraph (g) and adding a paragraph (i) in § 613.3040, by deleting paragraph (b) and renumbering paragraphs (c) and (d) as (b) and (c), respectively, in § 614.4390, by adding a paragraph (c) in § 614.4430, and deleting § 619.9070. The revised, added and renumbered paragraphs are as follows:

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

§ 613.3040 **Rural residents.**

* * * * *

(g) For the purposes of nonfarm home lending only, a rural area is agricultural open country which may include rural subdivisions or any city or village with a population not exceeding 2,500 persons. A rural area does not include subdivisions or villages associated with or adjacent to a larger population center. The intent is to avoid lending in concentrated, high density residential areas or villages which are a part of an urbanizing area surrounding or immediately adjoining an urban area of a larger population center.

* * * * *

(i) The establishment of standards of rural subdivision design shall encourage an orderly development of economically stable communities in a healthful rural living environment. The bank shall prescribe appropriate standards subject to the approval of the district board for eligible subdivisions located in rural areas. Standards for rural subdivisions shall be designed to assure:

(1) Conformation where applicable with general planning policies of the planning agency having jurisdiction;

(2) Compliance with all local regulations, ordinances, and codes;

(3) Adequate and dependable water and waste disposal system;

(4) Adequate, economic, safe and dependable streets, lot layout, utilities, grading and drainage; and

(5) That the location will provide desirable permanent living conditions for the residents so as to insure long-term market demand and acceptability.

PART 614—LOAN POLICIES AND OPERATIONS

§ 614.4390 **Appraisal of security.**

* * * * *

(b) A procedure for classifying security and area shall be a basic part of the appraisal process.

(c) The same appraisal standards, and forms and procedures shall be used by both Federal land bank associations and production credit associations.

§ 614.4430 **Identification of rural housing loans.**

* * * * *

(c) *Provided, however,* That housing loans for homes used in farming operations or immediate family needs to farmers and ranchers may be identified as farm loans if the borrower meets the requirements of § 613.3020(g)(1) of this chapter.

PART 619—DEFINITIONS

§ 619.9070 [Deleted]

(Sec. 5.9, 5.18, 5.26, 85 Stat. 619, 621, 624)

E. A. JAENKE,
Governor,
Farm Credit Administration.

[FR Doc.73-1436 Filed 1-23-73;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 35]

[Docket No. R-463]

ELECTRIC SERVICE TARIFF CHANGES

Proposed Filing Requirements; Notice of Extension of Time

JANUARY 19, 1973.

On January 10, 1973, the American Public Power Association filed a request for extension of time within which to file comments concerning the Notice of proposed rule making in Docket No. R-463, Filing of Electric Service Tariff Changes (37 FR 28195), issued on December 14, 1973.

Upon consideration, notice is given that the time is extended to and including February 28, 1973, within which any interested person may submit data, views, and comments in writing in the above designated matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1485 Filed 1-23-73;8:45am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Accounting for Long-Term Contracts and Advance Payments; Extension of Time for Comments

Proposed amendments to the regulations under section 451 of the Internal Revenue Code of 1954, relating to accounting for advance payments and long-term contracts appear in the FEDERAL REGISTER for Tuesday, November 21, 1972 (37 FR 24753).

Written comments or suggestions pertaining to the proposed amendments were required by January 20, 1973. The time for submission of written comments pertaining to the proposed regulations is hereby extended to March 21, 1973.

LEE H. HENKEL, Jr.,
Chief Counsel.

[FR Doc.73-1598 Filed 1-23-73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 21]

COMBINATION CORRESPONDENCE-RESIDENCE PROGRAM

Notice of Proposed Regulatory Development

Under current VA regulations the correct rules pertaining to payment of benefits for students enrolled in combined correspondence-resident programs are not set forth explicitly. Section 1788(b), title 38, United States Code, provides authority for the Administrator to define full-time training in courses not covered by section 1788(a). It is proposed to add § 21.4279 to Subpart D, Part 21, Title 38, Code of Federal Regulations, to make explicit, under this authority, the definition of full-time training for combined correspondence-residence programs.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (232H), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All relevant material received before February 23, 1973, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make any regulation that is adopted effective the date of approval.

§ 21.4279 Combination correspondence-residence program.

(a) A program of education may be pursued partly in residence and partly by correspondence for the attainment of a predetermined and identified objective under the following conditions:

(1) The correspondence and residence portions are pursued sequentially; that is, not concurrently.

(2) It is the practice of the institution to permit a student to pursue a part of his course by correspondence in partial fulfillment of the requirements for the attainment of the specified objective.

(3) The total credit established by correspondence does not exceed the maximum for which the institution will grant credit toward the specified objective.

(b) The rate of educational assistance allowance payable shall be computed as set forth in §§ 21.4270 and 21.4136(a).

(1) The charges for that portion of the program pursued exclusively by correspondence will be in accordance with § 21.4136(a) with 1 month of entitlement charged for each $220 of cost reimbursed.

(2) The charges for the residence portion of the program must be separate from those for the correspondence portion.

Approved: January 17, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.73-1474 Filed 1-23-73;8:45 am]

Notices

DEPARTMENT OF STATE

Office of the Secretary

NATIONAL REVIEW BOARD FOR THE CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

Notice of Meeting

The National Review Board for the Center for Cultural and Technical Interchange Between East and West will meet in open session at the Center, 1777 East-West Road in Honolulu, HI on January 29 and 30, 1973. The Board will discuss building plans and the progress of the Center's newly established Office of Private Resources. The meeting is scheduled to take place in Jefferson Hall from 9:30 a.m. to 4:30 p.m. on January 29 and from 9:30 a.m. to noon of January 30.

CAROL M. OWENS,
Executive Secretary.

JANUARY 9, 1973.

[FR Doc.73-1600 Filed 1-23-73;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

INDUSTRY ADVISORY GROUP ON AIRCRAFT STRUCTURAL INTEGRITY PROGRAM

Notice of Closed Meeting

The Aeronautical Systems Division Industry Advisory Group on the Aircraft Structural Integrity Program will meet on Tuesday, Wednesday, and Thursday, 20, 21, 22 February 1973, at Wright-Patterson Air Force Base, Ohio. This Advisory Group is established to advise the ASD Commander on all matters incident to the development and refinement of (1) service life prediction techniques for aircraft structures and (2) design criteria to attain programmed service life. This meeting is for the purpose of providing advice to the ASD Commander regarding formulation of requirements, determination of procedures and discussion of current industry activities in assuring structural integrity of current and future Air Force aircraft systems. The meeting will involve expression of views and judgments of the members and their companies. Accordingly under the authority of the Secretary of the Air Force notice of determination of 3 November 1972, this meeting will involve matters which fall within policies analogous to those recognized in section 552 (b) (1) and (4) of title 5, United States Code, and will be closed to the public.

Dated: January 12, 1973.

W. B. MILLER, *Chairman,*
ASD ASIP Industry Advisory Group.

[FR Doc.73-1403 Filed 1-23-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[Public Notice 25]

GILA PROJECT, ARIZONA, YUMA MESA DIVISION, SOUTH GILA VALLEY DIVISION

Public Notice of Water Service Following Transfer of Operation and Maintenance Responsibility to the Yuma Irrigation District

Boulder City, Nev., December 18, 1972, (Act of June 17, 1902, 32 Stat. 388, as amended or supplemented).

1. *Water service.* (a) Operation and maintenance responsibility in the South Gila Valley Unit will be transferred by the United States to the Yuma Irrigation District effective January 1, 1973. Beginning January 1, 1973, and continuing thereafter until further notice, irrigation water, when available, will be furnished by the Yuma Irrigation District to the irrigable lands in the above-designated unit for which district taxes for said water service have been paid pursuant to the contract of July 23, 1962 (No. 14-06-300-1270), as amended, between the United States and the Yuma Irrigation District.

(b) Orders for water should be made to the Yuma Irrigation District in accordance with the District's operating rules and regulations.

2. *Acreage limitation.* Except as otherwise provided in the Reclamation Law (Act of June 17, 1902, 32 Stat. 388, as amended or supplemented), and the contract of July 23, 1962, as amended, no water will be delivered by the Yuma Irrigation District to any lands which constitute "excess lands" within the meaning of said law and the aforesaid contract of July 23, 1962, as amended.

ROY D. GEAR,
Acting Regional Director, Lower Colorado Region, Bureau of Reclamation.

[FR Doc.73-1460 Filed 1-23-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

PERISHABLE AGRICULTURAL COMMODITIES ACT—INDUSTRY ADVISORY COMMITTEE

Notice of Open Meeting

Pursuant to the Federal Advisory Committee Act, section 10(a)(2), dated October 6, 1972, notice is hereby given of a meeting of the Perishable Agricultural Commodities Act—Industry Advisory Committee on Saturday, February 10, 1973, at 9 a.m. in the Mission Room of the Los Angeles Hilton Hotel, 930 Wilshire Boulevard, Los Angeles, CA.

The purpose of the meeting is to discuss policies and procedures relating to the administration of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.). The meeting will be open to the public.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Floyd F. Hedlund, Director, Fruit and Vegetable Division, Agricultural Marketing Service, Room 2077, South Building, U.S. Department of Agriculture, Washington, DC 20250; telephone 202-447-4722.

Dated: January 17, 1973.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.73-1375 Filed 1-23-73;8:45 am]

Forest Service

PROPOSAL FOR OKLAWAHA RIVER

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for a proposal for Oklawaha River, USDA-FS-FES (Adm and Leg) 72-36.

The environmental statement concerns the following action:

1. *Administrative action.* a. Adjustment of the Proclamation Boundary of the Ocala National Forest in Marion and Putnam Counties, Florida.

b. Initiate studies and submit to National Forest Reservation Commission for consideration as required under the Weeks Act of March 1, 1911 (16 U.S.C. 515 and 516), proposed acquisition and administration by the USDA, Forest

Service, of certain lands (approximately 25,400 acres in fee title and 4,780 acres under lease) which have been acquired, are in process of being acquired or controlled by easements by the Florida Canal Authority lying generally along the Oklawaha River between the St. Johns River and Dead River Swamp.

c. Transfer the jurisdiction of lands along the section of the Oklawaha River now held and administered by the Department of the Army, Corps of Engineers, to the USDA, Forest Service.

Ownership of and operational and maintenance responsibility for Rodman Dam, Buckman Lock, and associated facilities for flood control and navigation purposes would remain with the Corps of Engineers until the Wild and Scenic River Study and associated implementing action is completed.

The Wild and Scenic River Study would make recommendations on the management or disposition of Rodman Dam. Buckman Lock and associated facilities.

2. *Legislative action.* Designate a portion of the Oklawaha River in Marion and Putnam Counties, Fla., as a Study River under the National Wild and Scenic Rivers Act, PL 90-542, with provisions for a Federal Study to be completed as soon as possible.

The study proposal assumed supportive action in the form of an immediate but temporary partial drawdown of Lake Oklawaha. Lowering the lake assures that study conclusions are drawn from the widest possible array of options, thus allowing maximum flexibility in the setting of ultimate management goals for this area.

This final environmental statement was filed with CEQ on January 16, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, DC 20250.
USDA, Forest Service, 1720 Peachtree Road NW., Room 806, Atlanta, GA 30309.
USDA, Forest Service, Forest Supervisor, 214 South Bronough Street, Tallahassee, FL 32302.

A limited number of single copies are available upon request to Regional Forester, U.S. Forest Service, Room 806, 1720 Peachtree Road NW., Atlanta, GA 30309.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the Environmental Statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

JANUARY 18, 1973.

[FR Doc.73-1414 Filed 1-23-73;8:45 am]

PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Agenda for Meeting

Notice is hereby given that a meeting of the Pacific Crest National Scenic Trail Advisory Council will be held, beginning at 9 a.m., on February 1, 1973, and continue through February 3, 1973, at the Hanalei Motel, 2270 Hotel Circle, San Diego, CA 92108. The purpose of the Council is to advise the Secretary on matters relating to the Pacific Crest National Scenic Trail, including the selection of rights-of-way, standards of the erection and maintenance of markers along the trail, and the administration of the trail.

The agenda for this meeting will include:

THURSDAY, FEBRUARY 1

1. Welcome and discussion of recent happenings.
2. Reports from subgroup chairmen and/or council members on accomplishments and advice on trail matters.
3. Construction program.

FRIDAY, FEBRUARY 2

1. Right-of-way acquisition program.
2. Public information.
3. Summary remarks.

SATURDAY, FEBRUARY 3

1. Field trip to Cleveland National Forest.

The meeting will be open to the public. For additional information, interested persons may contact the Division of Engineering, Forest Service, Washington, D.C., by telephone (703—557-0418) or by mail (USDA, Forest Service, Division of Engineering, Washington, D.C. 20250) prior to the meeting.

RUSSELL P. MCROREY,
Chairman, Pacific Crest Trail Advisory Council.

JANUARY 18, 1973.

[FR Doc.73-1402 Filed 1-23-73;8:45 am]

Soil Conservation Service

LITTLE RUNNING WATER DITCH RC&D MEASURE PLAN, ARKANSAS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Little Running Water Ditch RC&D Measure Plan, Randolph County, Ark., USDA-SCS-ES-RD-(ADM)-73-1-(D).

The environmental statement concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include conservation land treatment, supplemented by 41 miles of channel alteration with appurtenances including 245 water control structures, six grade control structures, and seven low water weirs.

This draft environmental statement was filed with CEQ on January 16, 1973.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, Room 5409, Federal Office Building, Little Rock, Ark. 72201.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151, for $3 each. Please use name and number of statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Einar L. Roget, State Conservationist, Soil Conservation Service, Post Office Box 2323, Little Rock, AR 72203.

Comments must be received on or before February 23, 1973, in order to be considered in the preparation of the final environmental statement.

W. B. DAVEY,
Acting Administrator, Soil Conservation Service.

JANUARY 16, 1973.

[FR Doc.73-1465 Filed 1-23-73;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. C-377]

LEONARDO L. OLIVIERI

Notice of Loan Application

JANUARY 16, 1973.

Leonardo L. Olivieri, 1435 Laurel Street, Santa Cruz, CA 95060, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 36-foot in length, to engage in the fishery for anchoves, squid, salmon, albacore, California halibut, mackerel, king croaker, smelt, pompano, and bottomfish off the coast of California.

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, by February 23, 1973. 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.73-1404 Filed 1-23-73;8:45 am]

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Notice of Intent to Issue Exemptions

The National Oceanic and Atmospheric Administration published interim regulations (37 FR 28177) on December 21, 1972, to implement the Marine Mammal Protection Act of 1972 (Public Law 92-522) relating to the taking and importing of marine mammals and marine mammal products.

Section 101(a)(1) of the Act and § 216.12 of the regulations provide for scientific research permits based on recommendations by a Marine Mammal Commission. Since the Commission has not been appointed as yet, it is not possible to issue any permits for scientific research. However, we do not feel that it was the intent of the Act to end all scientific studies during this period. Therefore, during the interim we propose to consider undue economic hardship exemptions for the taking of marine mammals for scientific purposes: *Provided*, That some degree of economic hardship is shown. These exemptions will be considered under the criteria set forth in §§ 216.12 and 216.13 of our regulations regarding scientific research permits and economic hardship exemptions. The financial burden which would be occasioned by the termination of research and the restarting of research upon establishment of the Marine Mammal Commission may be considered an undue economic hardship: *Provided*, That the project can be justified scientifically. Where the research is for the benefit of the animals, a minimum economic hardship will be considered undue. Upon appointment of a Marine Mammal Commission and the Committee of Scientific Advisors, scientific research permit applications will be referred to those bodies for review and recommendations, as provided in § 216.12 of the regulations.

Dated: January 22, 1973.

ROBERT M. WHITE,
Administrator.

[FR Doc.73-1533 Filed 1-23-73;8:45 am]

KENNETH S. NORRIS, ET AL.

Applications for Marine Mammals Exemptions

The Marine Mammal Protection Act of 1972 authorizes the Secretary to exempt any person other than those engaged in commercial fishing operations from the provisions of the Act in order to minimize undue economic hardship.

As of Friday, January 19, 1973, the following persons have made application for such an exemption:

1. Dr. Kenneth S. Norris, University of California, Santa Cruz. Request: To tag three juvenile gray whales in Boca Soledad, Baja California with telemetric data and tracking packages.

2. Sea World, San Diego, Calif. Request: To take and display 36 Cetacea and 46 Pinnepedia in a new facility in Orlando, Fla.

3. Dr. Howard E. Winn, University of Rhode Island. Request: To take and import three gray seals from Canada for biology and bielectronic research.

4. Gulfarium, Fort Walton Beach, Fla. Request: To take four Atlantic bottle-nose porpoise for public display.

5. Sea Lions International, Santa Barbara, Calif. Request: To take 200 California Sea Lions for public display by various zoos and aquaria.

6. Seattle Marine Aquarium and Namu, Inc., Seattle, Wash. Request: To take eight killer whales for public display by various zoos and aquaria.

7. Bergner International Corp., New York, NY. Request: To import about 10,000 dressed Beater and Blueback sealskins from Canada, for resale.

All documents submitted in connection with any of the above applications are available for inspection in the Office of the Director, National Marine Fisheries Service. Confidential financial documents and trade secrets will not be available.

Dated: January 22, 1973.

ROBERT M. WHITE,
Administrator.

[FR Doc.73-1532 Filed 1-23-73;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the GSA Patent Licensing Regulations.

Copies of patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22151 at the prices cited. Requests for copies of patent applications must include the PAT-APPL number and the title. Inquiries and requests for licensing information should be directed to the address cited on the first page of each copy of the patent application.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231 at $0.50 each. Inquiries and requests for licensing information should be directed to the "Assignee" as indicated on the copy of the patent.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. ATOMIC ENERGY COMMISSION

Patent 3,635,676. Method for Increasing the Strength of Carbon Foam. Filed November 5, 1969. Patented January 18, 1972. Not available NTIS.

Patent 3,635,793. Connector Assembly. Filed October 7, 1969. Patented January 18, 1972. Not available NTIS.

Patent 3,635,831. Production of High-Purity Cesium-137. Filed September 25, 1969. Patented January 18, 1972. Not available NTIS.

Patent 3,636,323. Geographic Position Locator. Filed May 1, 1970. Patented January 18, 1972. Not available NTIS.

Patent 3,636,389. Magnetohydrodynamic Method and System. Filed March 22, 1971. Patented January 18, 1972. Not available NTIS.

Patent 3,636,462. Automatic DC Level Controlling System for a DC-Coupled Amplifier. Filed December 11, 1970. Patented January 18, 1972. Not available NTIS.

Patent 3,636,674. Insulation Module with Superposed Deformed Core Sheets. Filed August 10, 1964. Patented January 25, 1972. Not available NTIS.

Patent 3,636,923. Apparatus for Coating Microspheres with Pyrolytic Carbon. Filed May 4, 1970. Patented January 25, 1972. Not available NTIS.

Patent 3,637,314. Tubing Reflectometer. Filed January 13, 1970. Patented January 25, 1972. Not available NTIS.

Patent 3,637,422. Dispersion-Hardened Tungsten Alloy. Filed January 3, 1968. Patented January 25, 1972. Not available NTIS.

Patent 3,638,017. Thermoluminescent Dosimeter Encoding and Readout Method. Filed December 23, 1969. Patented January 25, 1972. Not available NTIS.

Patent 3,638,023. Radioisotopic Power Source. Filed November 7, 1969. Patented January 25, 1972. Not available NTIS.

Patent 3,638,154. Braided Superconductor. Filed March 26, 1970. Patented January 25, 1972. Not available NTIS.

Patent 3,643,441. Oil Storage Method. Filed May 5, 1970. Patented February 22, 1972. Not available NTIS.

Patent 3,650,896. Nuclear Fuel Particles. Filed October 9, 1969. Patented March 21, 1972. Not available NTIS.

Patent 3,652,233. Method of Improving Recovery of Neptunium in the Purex Process. Filed December 29, 1969. Patented March 28, 1972. Not available NTIS.

Patent 3,652,744. Method of Making Nuclear Fuel Elements. Filed November 19, 1969. Patented March 28, 1972. Not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR

Patent 3,700,591. Clearing of Used Membrane with Oxalic Acid. Filed September 24, 1970. Patented October 24, 1972. Not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Patent application 293,727. Phase Detection System for AC Power Lines. Filed September 29, 1972. PC $3/MF $0.95.

[FR Doc.73-1387 Filed 1-23-73;8:45 am]

Office of Import Programs

POMONA COLLEGE 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 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, on or before February 13, 1973.

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. 73-00287-33-46500. Applicant: Pomona College, 6th Street and College Avenue, Claremont, CA 91711. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for conducting experiments on the fine structure of synapses in the nervous system of a primitive chordate, amphioxus. In addition, the ultrastructure of intercelluar junctions, particularly septate junctions, in a variety of invertebrate animals will be studied. The article will also be used in the course Zoology 199, Introduction to Research in Zoology to provide students with experience and training in research techniques and procedures. Application received by Commissioner of Customs: December 18, 1972.

Docket No. 73-00288-33-46500. Applicant: Mount Sinai School of Medicine of the City University of New York, Fifth Avenue and 100th Street, New York, NY 10029. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrastructural investigations on the structure of normal and pathologic organs of Corti from animal and human autopic material. Additional research projects also will use this instrument in the preparation of specimens of human cancers from larynx, nasal septa and other pertinent areas. The article will also be used for introduction of research techniques and evaluation of experiments to resident physicians in otolaryngology. Application received by Commissioner of Customs: December 18, 1972.

Docket No. 73-00289-33-46040. Applicant: Yale University, Purchasing Dept., 260 Whitney Avenue, New Haven, CT 06520. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for research concerning the fine structure and fine-structural cytochemistry of melanocytes. Studies are directed toward understanding the conditions that influence growth, melanin synthesis, and transfer under physiologic, pathologic, and pharmacologic (therapeutic) conditions. Primary interest centers on the biology of melanoma cells and of melanocytes from individuals suffering from vitiligo. Aside from teaching electron microscopy to interested medical students (a research thesis is required for graduation) and residents in Dermatology, the article will be used in the following medical-school graduate school courses:

(a) Anatomy 106a: Principles and methods in electron microscopy.
(b) Anatomy 108 a&b: Applications of cytochemistry to electron microscopy.
(c) Anatomy 102a: Cell Biology.
(d) Anatomy 119a: Techniques in Developmental Biology.

Application received by Commissioner of Customs: December 19, 1972.

Docket No. 73-00290-33-46040. Applicant: Creighton University, College of Dentistry, 2500 California Street, Omaha, NE 68131. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used in studies of biological cells during inflammation and after pharmacologic manipulation; reticuloendothelial cells producing immuno-globulins; mast cells and cultured cells involved in bone resorption. All studies will relate to basic cellular phenomena which will increase knowledge and understanding of ultrastructural morphology in cellular function. The article will also be used for instruction of graduate students, faculty members and selected advanced undergraduate students in the use of the electron microscope in the course Advanced Oral Biology. Application received by Commissioner of Customs: December 19, 1972.

Docket No. 73-00291-98-54200. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT. 06520. Article: Extended Interaction Oscillator. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used for atomic beam magnetic resonance measurement of fine structure of 2^3P state. This will involve precision measurement of fundamental physical constants, precision test of quantumelectrodynamics, and check on recent theoretical calculations of He properties and wavefunctions. Application received by Commissioner of Customs: December 15, 1972.

Docket No. 73-00292-98-34040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: "Carcinotron" Backward Wave Oscillator. Manufacturer: Thomson-CSF Electronic Tubes Inc., France. Intended use of article: The article will be used in the development and operation of a polarized proton target. Microwave power supplied by the article polarizes the protons in the target material. The polarized proton target will be used to investigate the structure of the proton in a series of deep inelastic polarized electron-polarized proton scattering experiments. Application received by Commissioner of Customs: December 15, 1972.

Docket No. 73-00293-33-46040. Applicant: University of Chicago, 5801 South Ellis Avenue, Chicago, IL 60637. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used in an Electron Microscope Laboratory to provide service to scientists who have either frequent or occasional need for electron microscopic studies of molecules and tissue preparations. The laboratory will be committed to a wide range of ultrastructural projects that include studies on ovarian, testicular and placental function, on sperm and ovum biology, and on problems related to fertility and infertility. Application received by Commissioner of Customs: December 15, 1972.

Docket No. 73-00294-01-59800. Applicant: Florida State University, Department of Chemistry, Tallahassee, Fla. 32306. Article: Flash Photolysis Apparatus Type FP-2R. Manufacturer: Northern Precision Co., Ltd., United Kingdom. Intended use of article: The article is intended to be used in flash-kinetic-spectroscopy studies of the triplet decay characteristics of flexible organic molecules. The functioning of those molecules as acceptors and donors of triplet excitation is to be determined using the same technique. In these experiments a very intense flash of light is used to excite the molecules to higher electronically excited states. The article will also be used in undergraduate and graduate level courses to introduce students to advanced laboratory techniques in specialized areas of chemistry as well as to supervise independent and original research by students as part of the requirements for graduation with honors at the BA and BS level and the obtention of Masters or Ph. D. degrees. Application received by Commissioner of Customs: December 14, 1972.

Docket No. 73-00296-00-46040. Applicant: Northeastern University, 360 Huntington Avenue, Boston, MA 02115. Article: Transmission hot stage with power supply. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is an accessory to an existing electron microscope being used to study the amorphous to crystalline transformation in amorphous solids prepared in various ways. The article will also be used for educational purposes to assist graduate students in the pursuance of their degrees under the following course numbers: 02.991 masters thesis and 02.995

Ph. D. thesis. Application received by Commissioner of Customs: December 15, 1972.

Docket No. 73-00298-00-46070. Applicant: National Bureau of Standards, Institute for Materials Research, Metallurgy Division, Washington, DC 20234. Article: SEM television scanning system. Manufacturer: Cambridge Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used to obtain SEM information at TV rates in order to carry out dynamic experiments directly within the SEM. These experiments will include the following:

(a) The study of superplastic alloys of commercial interest,
(b) Investigation of plastically deformed single crystals concentrating on slip line lengths and slip step density measurements,
(c) Studies of freshly produced fractured surfaces terminating the deformation tests,
(d) Tests at elevated temperatures employing a heating stage within the microscope,
(e) Fatigue test utilizing flexible vibrating beam geometry, and
(f) Experiments in crystal growth at elevated temperatures using low vapor pressure materials concentrating on the kinetics and morphology of the liquid-solid interface.

Application received by Commissioner of Customs: December 20, 1972.

Docket No. 73-00299-65-77040. Applicant: University of Connecticut, Storrs, Conn. 06268. Article: Mass Spectrometer, Model MS902EI and accessories. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article is intended to be used for research in the following areas:

(1) Structure elucidation of natural products including:
Polypeptides.
Fungal metabolites.
Alkaloids.
Steroids.
Terpenes.
Anti-tumor compounds.
(2) Structure elucidation of synthetic organic and inorganic compounds including:
Synthetic terpenoids.
Synthetic alkaloid precursors.
Nitrogen heterocycles.
Organo-transition metal complexes.
Boron compounds.
General organic synthetic intermediates.
(3) Isotope labelling studies including:
Kinetic isotope effects in organic reactions.
Deuterium labelling in polypeptides and derivatives.
(4) Mass spectral fragmentation mechanism including:
Kinetic and thermodynamic studies of gaseous ions.
Metastable decomposition of gaseous ions.
(5) Combined GC-mass spectrometry for:
Identification of neurological compounds from snail brain.
Identification of flavor components in milk.
Characterization of odorous substances from microorganisms.

Application received by Commissioner of Customs: October 28, 1972.

Docket No. 73-00300-65-46040. Applicant: Newark College of Engineering, 323 High Street, Newark, NJ 07102. Article: Electron Microscope, Model JEM 120. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by both graduate students and faculty for investigations of crack initiation and propagation, order-disorder transformations, nature of whisker, nucleation and growth, fatigue and creep, and alloy strengthening. In addition the article will be used in the following courses: Engineering Materials, Microscopy and Diffraction in Materials, Materials Science II, and Advanced Materials Science Lab. Application received by Commissioner of Customs: November 17, 1972.

Docket No. 73-00301-33-46070. Applicant: Children's Hospital Medical Center, 300 Longwood Avenue, Boston, MA 02115. Article: Scanning Electron Microscope, Model JSM-50A. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to perform high spatial resolution micro analysis of calcifying tissues obtained from mammalian species such as the rat and rabbit. Both normal and those with experimentally produced diseases such as rickets or plumbism will be studied thus allowing analysis of intracellular organelles and the extracellular matrix for the presence of calcium, phosphorus and other biologically important inorganic elements. Application received by Commissioner of Customs: December 12, 1972.

Docket No. 73-00302-01-77040. Applicant: Purdue University, Lafayette, IN 47907. Article: MS-9 magnet fitted with low voltage coils, magnet trolley, electrostatic analyzer, lower inner frame, with runners for the magnet trolley, three-part assembly, with isolation valve, stilts, and heater, MS-9 insertion lock with direct insertion probe, a length of bent analyzer tubing, assorted flanges and bolts, and source supply chassis including a d.c. converter, high voltage cable, and isolation transformer. Manufacturer: AEI Scientific Apparatus Ltd., United Kingdom. Intended use of article: The article is intended to be used in the construction of an Ion Kinetic Energy Spectrometer (IKES) which is to be used in research for a better understanding of the energetics and kinetics of gas phase ionic reactions. Application received by Commissioner of Customs: December 12, 1972.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-1385 Filed 1-23-73;8:45 am]

WILSON COLLEGE 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 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, on or before February 13, 1973.

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. 73-00304-99-46040. Applicant: Wilson College, Chambersburg, Pa. 17201. Article: Electron Microscope, Model EM-9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the following Biology courses:

Biology 317: Basic Techniques of Electron Microscope—To acquaint the student with a modern technique utilized in virtually every discipline of biological investigation.
Biology 350: Independent Study—To meet the individual needs of the advanced student.
Biology 359, 360: Senior Advanced Study and Research—To provide an opportunity for a senior to engage in independent advanced study and research in a specific phase of her major field.

In addition the article will be used for the following research projects:

1. Reversibility of cellular differentiation in two genera of frogs would be investigated.
2. The ultrastructure of differentiating cells and of fertilized eggs would be examined.
3. The ultrastructure of differentiated cells and of fertilized eggs after exposure to ultraviolent light would be described and compared to that of unirradiated cells.

Application received by Commissioner of Customs: December 21, 1972.

Docket No. 73-00305-50-77000. Applicant: Colorado State University, Fort Collins, Colo. 80521. Article: Distrometer, Type RD 69. Manufacturer: Distromet Ltd., Switzerland. Intended use of article: The article is intended to be used for measuring raindrop-size distributions and comparing seeded with non-seeded cases. In addition correlation with radar observations and actual amounts of precipitation will be made using parallel data from an extensive observation network. Application received by Commissioner of Customs: December 21, 1972.

Docket No. 73-00306-00-77000. Applicant: Colorado State University, Fort Collins, Colo. 80521. Article: Analyzer Type AD 69. Manufacturer: Distromet Ltd., Switzerland. Intended use of article: The article is intended to be used in conjunction with a raindrop distrometer for the following research purposes:

Measurement of raindrops and comparing seeded with nonseeded cases and correlations with radar observations and actual amounts of precipitation using parallel data from extensive observation network. The data from the distrometer will be rapidly and economically processed by the analyzer and fed directly into the computer. Application received by Commissioner of Customs: December 21, 1972.

Docket No. 73-00307-33-46040. Applicant: The George Washington University, Department of Anatomy, 1335 H Street, NW., Washington, D.C. 20005. Article: Electron Microscope, Model JEM 100B. Manufacturer. JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the detailed study of biomembranes as well as studies employing tracers. The experiments to be conducted consist of:

a. The mechanism of sickle cell at biophysical cellular level in the erythrocyte.
b. Ultrastructural topography of the absorptive cell membrane in the gastrointestinal tract and its relationship to membrane transport of salt, water, sugars and amino acids,
c. Studies on cell membranes will also be conducted using tracers including the small horseradish molecules, and
d. Studies to determine the "limiting" membrane of lipid droplets.

The article will also be used to train future electron microscopists and to provide other individuals with an investigative tool to be used in situations where the ultrastructure is of value. Application received by Commissioner of Customs:

Docket No. 73-00308-33-46500. Applicant: Texas Agriculture Experiment Station, Animal Science Department, College Station, Tex. 77843. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of Article: The article is intended to be used for studies of muscle tissue and connective tissue with special interest in the interrelationship of collagen fibers, muscle fibers and the surrounding connective tissue as they are situated in the muscle tissues. Muscle tissue as a food will be studied with interest in the postmortem changes that take place in muscle as it is converted to meat. Experiments planned involve sectioning muscle fibers, collagen fibers and surrounding connective tissue together as they are situated in the muscle tissues. Application Received by Commissioner of Customs: December 26, 1972.

Docket No. 73-00309-33-46500. Applicant: Trenton State College, Biology Department, Pennington Road, Trenton, N.J. 08625. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of Article: The article is intended to be used in studies of biological material, including mammalian tissue, mainly cardiac, and tropical marine red algae and their parasites. The experiments to be conducted involve:

(a) The normal ultrastructure of cells in the conduction tissue of the heart as well as structural changes with chemotherapy.
(b) Ultrastructure of the apical cells of algae, including studies of the apical cells. Parallel study of the secondary "Pit" initial and correlated differentiation. Parallel study of the apical cell and "Pit" initial in parasites of each species. Study of Ultrastructure of the host-parasite connection and influence of apical damage on thallus form and ultrastructural changes in sub-apical cells.

In addition, the article is to be used in the courses—Cytology and Independent Study in Biology—to obtain the following objectives:

(a) To introduce students to all types of microscopic procedures,
(b) To introduce students to all types of cytological interpretations,
(c) To introduce students to all types of histological interpretations, and
(d) To instill an understanding of the scientific method in biological research.

Application received by Commissioner of Customs: December 26, 1972.

Docket No. 73-00310-33-46500. Applicant: Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, NY 10461. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study the interrelations of cell "organelles" in a great many cell types. Currently under study are liver (rat, human), small intestine (guinea pig, human, rat, etc.), liver cancers (Novikoff hepatoma, Morris hepatomas) and other tissues. The work is largely cytochemical, wherein embedding media of different degrees of hardness will be used. True three-dimensional configurations of organelles will be investigated. Unfrozen material will be used for cytochemistry, especially for the peroxidase labeled antibody procedure. Application received by Commissioner of Customs: December 26, 1972.

Docket No. 73-00311-01-01100. Applicant: Graduate Hospital of University of Pennsylvania, Clinical Research Center, 19th and Lombard Streets, Philadelphia, PA 19146. Article: Nitrogen 15 Analyzer. Manufacturer: Breda, Holland. Intended use of Article: The article is intended to be used for a research program on Protein Metabolism in Surgical Patients in the General Clinical Research Center at the Graduate Hospital of the University of Pennsylvania. ^{15}N will be analyzed using an optical method. Application received by Commissioner of Customs: December 20, 1972.

Docket No. 73-00312-33-46040. Applicant: Department of Public Health, State Laboratory Institute, 305 South Street, Jamaica Plain, MA 02130. Article: Electron Microscope, Model EM 300. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for rapid and accurate diagnosis of selected human and animal virus diseases. The materials to be studied include specimens which will be examined directly for virus and/or viral antigens in skin lesions; vesicle fluid, tissue from organs including brain, liver, lung, spleen, pancreas and other organs; exfoliated cells from throat and the reproductive system, biopsy specimens, leucocytes; exudates; and transludates. Application received by Commissioner of Customs: December 27, 1972.

Docket No. 73-00313-33-46595. Applicant: University of Pittsburgh, Department of Physiology, Pittsburgh, Pa. 15213. Article: LKB 11800-5 pyramitome with 11870 target marker. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in a study of the role of extracellular-fixed charges in the function of skeletal muscle. The project involves experimental manipulations of isolated bundles of skeletal muscle fibers. Application received by Commissioner of Customs: December 27, 1972.

Docket No. 73-00314-01-77030. Applicant: Trenton State College, Trenton, N.J. 08625. Article: NMR Spectrometer, JNM-MH-60. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the teaching of Organic Chemistry, Analytical Chemistry, Qualitative Organic Chemistry and Advanced Organic Chemistry Students will be taught. (a) Theory and practice of nuclear magnetic resonance, (b) the use of nuclear magnetic resonance as a diagnostic tool in identifying organic chemicals from reaction mixtures and (c) the use of nuclear magnetic resonance in kinetics of reactions including fast reactions by using relaxation techniques. Application received by Commissioner of Customs: December 27, 1972.

Docket No. 73-00315-90-30600. Applicant: University of Iowa, Hydraulic Research Institute, Hydraulic Laboratory, Iowa City, Iowa 52240. Article: Model 403 Low-speed probe 2.5 to 150 cm/sec and Model 405 signal cable assembly, 3 m long. Manufacturer: Novar Nixon Electronic Instrumentation, United Kingdom. Intended use of article: The article is intended to be used to measure, indicate, and record very low flow rates of water and other conductive fluids. Application received by Commissioner of Customs: December 27, 1972.

Docket No. 73-00316-33-09300. Applicant: Hospital for Joint Diseases and Medical Center, 1919 Madison Avenue, New York NY 10035. Article: Staput apparatus. Manufacturer: Johns Scientific, Canada. Intended use of article: The article is intended to be used to separate the populations of heterogeneous cells in a spleen of a myeloma tumor mouse to see if an immunological response is taking place in the mouse. Application received by Commissioner of Customs: December 26, 1972.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-1386 Filed 1-23-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), that the next meeting of the National Advisory Council on Adult Education will be held on February 18, 19, 20, 1973. The four committees of the Council will meet at the Regency Hyatt House, Atlanta, Ga., commencing at 5 p.m., February 18. On February 19-20, 1973, the Council will meet at the Georgia Center for Continuing Education, University of Georgia, Athens, Ga. On February 19, 1973, the meeting will be held from 9 a.m. to 5 p.m. On February 20, 1973, the meeting will be held from 7:30 a.m. to 5 p.m.

The National Advisory Council on Adult Education is established under section 310 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public. The proposed agenda includes:

University of Georgia's continuing education program.
Status of Adult Education in Region IV.
Annual report—Federal legislation.
Fiscal year 1974 research thrust.
Program visitations.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 1144, Pennsylvania Building, 425 13th Street NW., Washington, DC 20004).

Signed at Washington, D.C., on January 17, 1973.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.73-1431 Filed 1-23-73;8:45 am]

NATIONAL ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, that the next meeting of the full membership of the National Advisory Council on Environmental Education will be held commencing at 9 a.m., on Thursday, January 25, 1973, through 10:30 p.m., on Saturday, January 27, 1973, at the Miami Civic Center, Holiday Inn, Miami, Florida.

The National Advisory Council on Environmental Education is established under section 3(c)(1) of the Environmental Education Act (Public Law 91-516). The Council is established to advise the Commissioner of Education on the review of the administration and operation of programs relating to the administration of the Act.

The meeting of the Council shall be open to the public. Records shall be kept of all proceedings and shall be available for public inspection at the Office of the Council's Executive Secretary, located in Room 424, Reporter's Building, 7th and D Streets SW., Washington, DC.

Signed at Washington, D.C. on January 8, 1973.

WALTER BOGAN,
Director,
Office of Environmental Education.

[FR Doc.73-1432 Filed 1-23-73;8:45 am]

Social and Rehabilitation Service

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Notice of Public Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled created to advise the Secretary on regulations and evaluation of programs for Public Law 91-517 will hold a regular meeting on February 2 and 3, 1973, 9 a.m. to 5 p.m., Plaza Room of the Holiday Inn, 1489 Jefferson Davis Highway, Arlington, VA. The agenda will include a report on the technical assistance project at University of North Carolina, a report on publication of proceedings from the recent National Conference, discussion of deinstitutionalization objective, review of legislation, discussion of State sign-off on UAF applications, and discussion on the definition of developmental disability. Meeting will be open to the public. Additional information can be obtained by calling the Executive Secretary at 202-962-7355.

FRANCIS X. LYNCH,
Executive Secretary.

JANUARY 19, 1973.

[FR Doc.73-1450 Filed 1-23-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-73-216]

CERTAIN HUD EMPLOYEES IN REGION IV (ATLANTA)

Authority to Administer Oaths

SECTION A. *Authority delegated.* Each of the following incumbent employees and their successors in the Department of Housing and Urban Development, Region IV (Atlanta), is hereby authorized to administer oaths under section 811(a) of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a), and to verify complaints filed under the Civil Rights Act of 1968:

1. *Atlanta Regional Office.* a. Director, Field Evaluation and Support Division.
b. Equal Opportunity Specialists.
c. Director, Equal Opportunity Compliance Division.
d. Equal Opportunity Compliance Specialists.
e. Program Management and Control Specialist.
2. *Atlanta Area Office.* a. Director, Equal Opportunity Division.
b. Equal Opportunity Specialists.
3. *Birmingham Area Office.* a. Director, Equal Opportunity Division.
b. Equal Opportunity Specialists.
4. *Columbia Area Office.* a. Director, Equal Opportunity Division.
b. Equal Opportunity Specialists.
5. *Coral Gables Insuring Office.* a. Equal Opportunity Officer.
b. Equal Opportunity Specialists.

6. *Greensboro Area Office.* a. Director, Equal Opportunity Division.
b. Equal Opportunity Specialists.
7. *Jackson Area Office.* a. Director, Equal Opportunity Division.
b. Equal Opportunity Specialists.
8. *Jacksonville Area Office.* a. Director, Equal Opportunity Division.
b. Equal Opportunity Specialists.
9. *Knoxville Area Office.* a. Director, Equal Opportunity Division.
b. Equal Opportunity Specialists.
10. *Louisville Area Office.* a. Director, Equal Opportunity Division.
b. Equal Opportunity Specialists.
11. *Memphis Insuring Office.* a. Equal Opportunity Officer.
b. Equal Opportunity Specialists.
12. *Nashville Insuring Office.* a. Equal Opportunity Officer.
b. Equal Opportunity Specialists.
13. *Tampa Insuring Office.* a. Equal Opportunity Officer.
b. Equal Opportunity Specialists.

SEC. B. *Supersedure.* The redelegation of authority to certain HUD employees in Region IV (Atlanta), published in 36 FR 11605, June 16, 1971, is superseded.

(Redelegation of authority by Regional Administrator effective June 5, 1970 (35 FR 8755, June 5, 1970))

Effective date. This redelegation shall be effective as of September 1, 1971.

AUGUSTUS L. CLAY, Jr.,
Acting Assistant Regional Administrator for Equal Opportunity, Regional Office IV (Atlanta).

[FR Doc.73-1368 Filed 1-23-73;8:45 am]

Office of Assistant Secretary for Community Development

[Docket No. D-73-215]

DIRECTOR AND DEPUTY DIRECTOR, COMMUNITY DEVELOPMENT DISASTER RECOVERY OFFICE, SCRANTON, PA.

Redelegation of Authority Regarding Renewal Assistance Programs

SECTION A. *Authority delegated.* The Director and Deputy Director, Community Development Disaster Recovery Office, Scanton, Pa., each is authorized to exercise the power and authority redelegated to Regional Administrators and Area Directors under section A of the Redelegation of Authority with Respect to Renewal Assistance Programs published at 35 FR 16102, October 14, 1970.

SEC. B. *Exercise of redelegated authority.* The redelegation of authority made under section A shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator to whom a delegate is responsible.

Effective date. This redelegation of authority is effective as of January 10, 1973.

(Secretary's delegation of authority published at 36 FR 5004, Mar. 16, 1971)

FLOYD H. HYDE,
Assistant Secretary for Community Development.

[FR Doc.73-1367 Filed 1-23-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

MALAD CITY, IDAHO

Notice of Decommissioning of Flight Service Station

Notice is hereby given that on January 20, 1973, the Flight Service Station at Malad City, Idaho, will be decommissioned. Air/ground communication services through the Malad City VORTAC and the limited remote control outlet on 122.1 mHz from Salt Lake City FSS will continue to be provided. This information will be reflected in the FAA organizational statement the next time it is issued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Seattle, Wash., on January 12, 1973.

C. B. WALK, Jr.,
Director.

[FR Doc.73-1418 Filed 1-23-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Notice of Availability of Environmental Reports

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in Appendix D to 10 CFR Part 50, notice is hereby given that documents entitled "Applicant's Environmental Report", "Supplement 1 to Prairie Island Nuclear Generating Plant Environmental Report", and "Supplement 2 to Prairie Island Nuclear Generating Plant Environmental Report" (collectively known as the "reports"), submitted by the Northern States Power Co. have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, the Environmental Library of Minnesota, 1222 Southeast Fourth Street, Minneapolis, MN, and in Minnesota State Planning Agency, 505 Cedar Street, St. Paul, MN. The reports are also available at the Metropolitan Council, 101 Capitol Square Building, 10th and Cedar Street, St. Paul, MN.

Notice of availability of the applicant's Environmental Report was published in the FEDERAL REGISTER on January 6, 1972 (37 FR 152).

The reports have been analyzed by the Commission's Directorate of Licensing, and a Draft Environmental Statement, related to the proposed issuance of operating licenses for the Prairie Island Nuclear Generating Plant Units 1 and 2, located at Northern States Power Co.'s site in Burnside Township, Goodhue County, has been prepared and is available for public inspection at the locations designated above. 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.

Pursuant to Appendix D to 10 CFR Part 50, interested persons may, on or before March 12, 1973, submit comments for the Commission's consideration on the Report and Supplements, on the Draft Environmental Statement, and on the proposed action. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain this document on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above designated locations. Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 22d day of January 1973.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.73-1554 Filed 1-23-73;8:45 am]

[Docket No. 50-387, 388]

PENNSYLVANIA POWER AND LIGHT CO.

Prehearing Conference Order of Atomic Safety and Licensing Board

This matter having come before the Atomic Safety and Licensing Board (Board) at a prehearing conference held on January 3, 1973, and counsel for all the parties having been present, the following actions were taken:

A. SCHEDULING

1. The evidentiary hearing will be held in two phases, with the radiological health and safety phase to begin on Wednesday, February 21, 1973, at 9 a.m., in the Berwick High School Auditorium, 1100 Fowler Avenue, Berwick, PA.

B. THE PARTIES

2. Without objection from any party, the Commonwealth of Pennsylvania is admitted to participation in this proceeding as a State pursuant to 10 CFR Part 215(c).

3. The Commonwealth has indicated that it desires to propound certain questions to the Applicant, the responses to which will be made by the Applicant either orally on the record at the time of the evidentiary hearing, or in written form at that time.

C. LIMITED APPEARANCES

4. All requests for limited appearances are granted, and those persons desiring to make oral presentations will be permitted to do so on the initial day of the evidentiary hearing.

5. Due to the large number of requests for limited appearance by way of oral statement, each person appearing in this manner will be limited to no more than 5 minutes in time for the purpose.

6. Written statements by way of limited appearance may be unlimited in length and will be accepted by the Board on the initial day of the evidentiary hearing. Such written statements as may have been submitted by persons prior to the time of the evidentiary hearing will also be accepted by the Board as appearances by way of limited appearance.

Issued at Washington, D.C., this 17th day of January 1973.

It is so ordered.

THE ATOMIC SAFETY AND LICENSING BOARD,
EDWARD LUTON,
Chairman.

[FR Doc.73-1453 Filed 1-23-73;8:45 am]

CIVIL AERONAUTICS BOARD

ASSOCIATED INDEPENDENT COMMUTER AIRLINES

Notice of Meeting

Notice is hereby given that a meeting with the above group will be held on February 8, 1973, at 2:30 p.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, to make a presentation to the Board.

Dated at Washington, D.C., January 18, 1973.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.73-1451 Filed 1-23-73;8:45 am]

[Docket No. 24916; Order 73-1-61]

UNITED AIR LINES, INC.

Order Denying Petition for Reconsideration Regarding U.S. Mainland-Hawaii Promotional Fare Increases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of January 1973.

By joint petition filed December 29, 1972, Aloha Airlines, Inc. (Aloha) and Hawaiian Airlines, Inc. (Hawaiian) request that the Board reconsider its decision in Order 72-12-45. By that order, the Board dismissed a complaint filed by Aloha and Hawaiian which requested suspension and investigation of certain increases in promotional fares to Hawaii proposed by United Air Lines, Inc. (United), on the ground that travel in groups of at least 30 persons was required within the State of Hawaii.

In dismissing the complaint, the Board stated that the rule to which the carriers object has been in effect for over a year and that the complaint had failed to demonstrate that the "travel together" requirement does in fact inhibit inter-island travel as alleged. The Board also noted that inter-island traffic continues to be strong and that Aloha and Hawaiian have both reported substantially improved financial results in the past year.

In their petition for reconsideration, the complainants assert that there can be no doubt that the "travel together" requirement, by its own terms, restricts the availability of the common fare, and thereby necessarily inhibits inter-island travel. They allege that the difficulty of forming a group of 30, all of whom desire to go to one particular point, is apparent even if the passengers are aware of the common fare. Moreover, the alleged absence of promotion of common-fare services by the mainland-Hawaii carriers makes it all the more difficult to organize an appropriate-sized group.

Aloha and Hawaiian further allege that the rule in question is contrary to past Board orders which indicated that availability of common fare travel should extend to all fares and without inhibiting restrictions. It is the belief of Aloha and Hawaiian that the group fares in question (and the "travel together" rule attendant therewith) violate condition (19) of United's certificate of public convenience and necessity which requires maintenance of tariffs providing for common-fare travel.

United answers that under its tariffs, common fares are fully available to all persons utilizing the revised group fares filed by United. It further alleges that the petition of Aloha and Hawaiian is totally devoid of a showing that inter-island travel is actually inhibited by the rule in question.

Upon consideration of the relevant matters, the Board concludes that the petition of Aloha and Hawaiian for reconsideration of Order 72-12-45 does not establish error in the Board's decision, and accordingly the petition will be denied.

In our opinion the Hawaiian carriers have again failed to demonstrate the alleged damaging effect of the "travel together" rule, or that the rule is inconsistent with the carriers' certificate responsibility to make common-fare travel available to all classes of service. The fare which brings the passenger to Hawaii (to which the rule in question applies) requires the formation of groups ranging in size from 40 to 154 persons, and we do not believe requiring travel to continue in groups of 30 or more within Hawaii alters the common-fare concept as originally conceived.

Aloha and Hawaiian express the concern that retention of the "travel together" rule in question will encourage the mainland-Hawaii carriers to seek "further restriction of the common fare by increasing the size of the group which must travel together or by imposing other restrictions less severe than those previously found unlawful." We would emphasize to Aloha and Hawaiian and the mainland-Hawaii carriers that our decision herein should not be construed to signal acceptance of a more restrictive application of the common-fare concept. We simply conclude that the existing "travel together" rule is not unreasonable.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. The petition of Aloha Airlines, Inc. and Hawaiian Airlines, Inc. filed in Docket 24916 is denied; and

2. Copies of this order will be served upon Aloha Airlines, Inc., Hawaiian Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.73-1452 Filed 1-23-73;8:45 am]

COMMISSION ON CIVIL RIGHTS

CALIFORNIA STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a 2-day meeting of the California State Advisory Committee will convene at 9 a.m. on January 30 and at 9 a.m. on January 31, 1973, in the Auditorium, 714 P Street, Sacramento, CA 95814. This meeting shall be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect persons residing in Sacramento, Calif.; to appraise denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin as these pertain to the administration of justice, and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, or national origin with respect to the administration of justice and related areas.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., January 17, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-1446 Filed 1-23-73;8:45 am]

DELAWARE STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware State Advisory Committee will convene at 12 noon on January 26, 1973, at the Wilmington Young Women's Christian Association (YWCA) located at 908 King Street, Wilmington, DE 19810. This meeting shall be open to the public.

The purpose of this meeting shall be to develop strategy for the Delaware Prison Study.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., January 17, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-1442 Filed 1-23-73;8:45 am]

ILLINOIS STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois State Advisory Committee will convene at 1 p.m. on January 25, 1973, in room 1426 at 219 South Dearborn Street, Chicago, IL 60604. This meeting shall be open to the public.

The purpose of this meeting shall be to (1) hear a report on the Illinois State Advisory Committee's Open Meeting of October 27-28, 1972, on Education in the Latin American Communities with particular focus on Mexican American and Puerto Rican problems; (2) discuss the feasibility of a mandatory bilingual education bill for the State of Illinois; and (3) hear comments by representatives of the Illinois Commission on the Spanish Speaking and the Bilingual Section of the Office of Illinois State Public Instruction and others interested in a mandatory bilingual education bill.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., January 17, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-1444 Filed 1-23-73;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee will convene at 2:30 p.m. on January 30, 1973, in the Office of the President of Kirkland College, Kirner Building, Clinton, N.Y. 13323. This meeting shall be open to the public.

The purpose of this meeting shall be to assess interviews taken at institutions in the State University System.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., January 17, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-1443 Filed 1-23-73;8:45 am]

OHIO STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Steering Subcommittee of the Ohio Prison Study Team will convene at 12 noon on January 24, 1973, in the office of the Committee Chairman at 762 Mallison Street, Akron, OH 44307.

The purpose of this meeting shall be to (1) analyze all data gathered and (2) finalize the schedule for the forthcoming open meeting on Ohio Prison Reform.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., January 17, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-1441 Filed 1-23-73;8:45 am]

VERMONT STATE ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont State Advisory Committee will convene at 7:30 p.m. on January 25, 1973, at the Montpelier Tavern Motor Inn, Montpelier, Vt. 05602. This meeting shall be open to the public.

The purpose of this meeting shall be to (1) discuss a report of a meeting of the State Advisory Committee with the Commissioner of Education for the State of Vermont and (2) discuss next steps to be taken on the Student Perception Project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., January 17, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-1445 Filed 1-23-73;8:45 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economc Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on October 17, 1972.[1]

The information reviewed at this meeting suggests a substantial increase in real output of goods and services in the third quarter, although well below the usually large rise recorded in the second quarter. In September wages and prices advanced moderately, while the unemployment rate remained substantial. In the U.S. balance of payments, the current account deficit has been largely offset by capital inflows in recent weeks, and the central bank reserves of most industrial countries have continued to change little. In August, the excess of U.S. merchandise imports over exports declined somewhat.

The narrowly and broadly defined money stock expanded at moderate rates in August and September, following large increases in July, but the bank credit proxy continued to grow rapidly. Since mid-September, short term interest rates have increased somewhat, while yields on most long term securities have changed little.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to sustainable real economic growth and increased employment, abatement of inflationary pressures, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, while taking account of the effects of possible bank regulatory changes, Treasury financing operations, and developments in credit markets, the Committee seeks to achieve bank reserve and money market conditions that will support more moderate growth in monetary aggregates over the months ahead than recorded in the third quarter.

By order of the Federal Open Market Committee, January 8, 1973.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.73-1405 Filed 1-23-73;8:45 am]

[1] The Record of Policy Actions of the Committee for the meeting of Oct. 17, 1972, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

COST OF LIVING COUNCIL

[Cost of Living Council Order 18]

CIVIL SERVICE COMMISSION

Delegation of Authority

Pursuant to the authority delegated to me by Cost of Living Council Order No. 14, and for the purpose of implementing section 212(g) of the Economic Stabilization Act of 1970 (Title II of Public Law 92-210, 85 Stat. 751, hereinafter the Act) there is hereby delegated to the U.S. Civil Service Commission, subject to coordination with the Director of the Cost of Living Council, the authority and the responsibility to issue and administer regulations governing reemployment rights under section 212(g) of the Act. Regulations issued under this delegation shall apply to each agency in the Executive branch (including the U.S. Postal Service) and the municipal government of the District of Columbia.

This delegation is effective January 22, 1973.

DONALD RUMSFELD,
Director,
Cost of Living Council.

[FR Doc.73-1575 Filed 1-22-73;4:01 pm]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List 303]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

DECEMBER 29, 1972.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kw	Antenna	Schedule	Class	Antenna height (feet)	Ground System: Number of radials	Ground System: Length (feet)	Proposed date of commencement of operation
		1090 kHz							
CKKW (change in daytime and nighttime radiation patterns—PO 1320 kHz, 1 kw, DA-2).	Kitchener, Ontario, N. 43°17'-20", W. 80°24'16".	10	DA-2	U	II				E.I.O. 12-29-73.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
HAROLD L. KASSENS, *Acting Chief, Broadcast Bureau.*

[FR Doc.73-1322 Filed 1-23-73;8:45 am]

[Docket No. 19668; FCC 73-25]

CONNELLSVILLE BROADCASTERS, INC.

Order Designating Application for Hearing on Stated Issues

In regard application of: Connellsville Broadcasters, Inc., Connellsville Pa., for renewal of license for radio station WCVI, Docket No. 19668, File No. BR-1550.

1. The Commission has under consideration: (a) Its inquiry into the operation of Station WCVI; (b) the captioned application; and (c) a petition filed February 5, 1971, by the Freedom Committee, an organization comprised of approximately 50 residents of the Connellsville area that was formed for the purpose of petitioning the Commission concerning the operation of Station WCVI. The Freedom Committee's petition will be treated as an informal request for Commission action, pursuant to § 1.41 of the Commission's rules.

2. Information obtained from our inquiry raises serious questions as to whether the applicant possesses the qualifications to be or to remain a licensee of the Commission. In view of these questions, the Commission is unable to find that a grant of the renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether the licensee engaged in fraudulent billing practices, or failed to exercise reasonable diligence to see that its agents and employees did not engage in fraudulent billing practices, in violation of § 73.1205 of the Commission's rules.

(2) To determine whether the licensee violated the fairness doctrine with respect to its handling of a controversy surrounding the medical care offered by local hospitals; and to determine whether the licensee's programing policies with respect to medical care offered by local hospitals were designed to protect the private interests of the licensee's president rather than to serve the public interest.

(3) To determine whether the licensee failed to make the necessary sponsor identification announcements in connection with political announcements, in violation of section 317 of the Communications Act and § 73.120 of the Commission's rules.

(4) To determine whether the licensee failed to properly maintain or make available its public inspection file, in violation of § 1.526 of the Commission's rules.

(5) To determine, in light of the evidence adduced under the preceding issues, whether the licensee has the requisite qualifications to be or to remain a licensee of the Commission, and whether a grant of the application would serve the public interest, convenience and necessity.

4. *It is further ordered,* That the informal request filed by the Freedom Committee is granted to the extent indicated above, and is denied in all other respects.

5. *It is further ordered,* That the Freedom Committee is made a party respondent in this proceeding.

6. *It is further ordered,* That the Chief of the Broadcast Bureau shall serve upon the captioned licensee, within thirty (30) days of the release of this order, a Bill of Particulars with respect to issues (1) through (4), inclusive.

7. *It is further ordered,* That the Broadcast Bureau and the Freedom Committee proceed with the initial presentation of the evidence with respect to issues (1) through (4), inclusive, and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be and to remain a licensee of the Commission and that a grant of its application would serve the public interest, convenience, and necessity.

8. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicant and the Freedom Committee, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, on or before January 29, 1973, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for

hearing and present evidence on the issues specified in this order.

9. *It is further ordered,* That the applicant, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing in the manner and within the time specified in that rule, and shall seasonably file the notice required by § 1.594'g) of the rules.

10. *It is further ordered,* That the Secretary of the Commission send a copy of this order by Certified Mail—Return Receipt Requested, to Connellsville Broadcasters, Inc.

Adopted: January 4, 1973.

Released: January 9, 1973.

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

[FR Doc.73-1320 Filed 1-23-73;8:45 am]

[Docket No. 13995; FCC 73R-27]

CLOVIS BROADCASTERS

Memorandum Opinion and Order Enlarging Issues

In regard application of Elbert Dean, and George E. Gautney and Carl T. Jones, a partnership, doing business as Clovis Broadcasters, Clovis, Calif., for construction permit, Docket No. 13995, File No. BP-12728.

1. Before the Review Board for consideration is a petition to enlarge issues, filed November 15, 1972, in which the remaining applicant in this proceeding requests an issue to determine whether good cause exists for the waiver of § 1.569(b)(2)(i) of the Commission's rules.[1]

2. The above-captioned application was designated for hearing by Order FCC 61-353, released March 20, 1961. However, because of the pendency of the Clear Channel Proceedings instituted shortly thereafter in 1961, this proceeding was held in abeyance. In response to an order to show cause (FCC 72M-700), released by the Administrative Law Judge on May 26, 1972, the applicant stated its intention to prosecute its application. Subsequently, in accordance with an agreement reached during a prehearing conference, the applicant submitted a comprehensive amendment which, inter alia, reflects a change to establish a directional antenna system; in connection with this portion of the amendment, the applicant requested a waiver of § 1.569(b)(2)(i) of the Commission's rules.[2]

By Order FCC 72M-1425, released November 16, 1972, the Presiding Judge accepted the amendment. However, because the Presiding Officer is not authorized to waive the requirements of Commission rules unless an appropriate issue looking toward waiver has been added to the proceeding, the applicant, at the suggestion of the Broadcast Bureau, filed the instant petition.

3. An issue looking toward waiver of § 1.569(b)(2)(i) of the Commission's rules will be added. Petitioner states that, although its transmitter site is located outside the 500-mile extension of the 0.5 mv/m-50 percent nighttime contour of Class I-A station WBAP, Fort Worth, Tex., this noncompliance with § 1.569(b)(2)(i) is purely technical in nature; and that because of the required protection to Station KGO, San Francisco, Calif., no Class II-A station operating on 820 kHz could be located in an area close enough to the proposed station to involve any prohibited overlap of contours.[3] These uncontested allegations, warrant the addition of an issue to determine whether the requirements of § 1.569(b)(2)(i) of the Commission's rules should be waived in this proceeding. See "Peter L. Pratt," 16 FCC 2d 967, 15 RR 2d 933 (1969); "Blue Ridge Broadcasting Co., Inc.," FCC 72-128, 23 RR 2d 887 (1972).

4. *Accordingly, it is ordered,* That the petition to enlarge issues, filed November 15, 1972, by Clovis Broadcasters is granted to the extent indicated herein, and is denied in all other respects; and

5. *It is further ordered,* That the issues in this proceeding are enlarged to include the following:

To determine whether the proposal of Clovis Broadcasters violate the provision of § 1.569(b)(2)(i) of the Commission's rules, and, if so, whether good cause exists for waiver of the provisions of said section; and

6. *It is further ordered,* That the burdens of proceeding with the introduction of evidence and proof under the issue added herein shall be on Clovis Broadcasters.

Adopted: January 11, 1973.

Released: January 16, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-1321 Filed 1-23-73;8:45 am]

KOTZEBUE BROADCASTING CO., INC.

Standard Broadcast Application Ready and Available for Processing

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on February 23, 1973, the following standard broadcast application will be considered as ready and available for processing:

BP-19280 NEW, Kotzebue, Alaska. Kotzebue Broadcasting, Inc. Req: 720 kHz, 5 kW, U.

Pursuant to § 1.227(b)(1) and § 1.591(b) of the Commission's rules, an application, in order to be considered with this application or with any other application on file by the close of business February 22, 1973, which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business February 23, 1973.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Application deleted from Public Notice of Januray 11, 1972 (Mimeo #78650) (13 FR 630):

BP-19133 NEW, Kotzebue, Alaska. Kotzebue Broadcasting, Inc. Req: 670 kHz, 5 kW, U. (Assigned new File No. BP-19280)

Adopted: January 16, 1973.

Released: January 17, 1973.

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

[FR Doc.73-1325 Filed 1-23-73;8:45 am]

TECHNICAL ADVISORY COMMITTEE PANEL 3

Notice of Public Meeting

JANUARY 16, 1973.

Panel 3 (Receivers) of the Cable Television Technical Advisory Committee will hold an open meeting on February 1, 1973, at 9:30 a.m. The meeting will be held in Suite 393 of the Marriott Motor Hotel located at 8535 West Higgins Road, Chicago, Illinois.

The agenda for the meeting will include:

1. Material prepared in response to assignments in selected areas on: (a) What to measure and (b) Measurement techniques (preliminary).
2. Letters raising some questions regarding Panel 3 intended charge.
3. Agree to plan for efforts during next period.

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

[FR Doc.73-1323 Filed 1-23-73;8:45 am]

[1] Also before the Board for consideration is the Broadcast Bureau's comments, filed November 22, 1972.

[2] Section 1.569(b)(2)(i) provides that applications for frequencies adjacent to Class I-A channels will be accepted for filing and acted upon provided they show, with respect to all Class I-A channels within 30kHz of the designated frequency, that the proposed transmitter site is located inside the area encompassed by a 500-mile extension of the 0.5 mv/m-50 percent nighttime contour of Class I-A stations on unduplicated channels.

[3] Station KGO operates on 810 kHz, which is only 10 kHz removed from Station WBAP; additionally, the 0.5 mv/m contour of KGO encompasses the proposed site at Clovis, Calif.

[4] Board Member Kessler not participating.

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 145]

FIDELITY CORP. AND TRANSOHIO FINANCIAL CORP.

Notice of Receipt of Application for Permission to Acquire Control of Cincinnati Savings Association

JANUARY 12, 1973.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Fidelity Corp., and its subsidiary, Transohio Financial Corp., registered savings and loan holding companies, both of Richmond, Va., for approval of acquisition of control of Cincinnati Savings Association, Cincinnati, Ohio, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by an exchange of shares of Transohio common stock for the shares of the capital stock of Cincinnati Savings Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before February 23, 1973.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.73-1393; Filed 1-23-73; 8:45 am]

FEDERAL POWER COMMISSION

[Project No. 2600]

BANGOR-HYDRO ELECTRIC CO.

Further Postponement of Hearing; Correction

JANUARY 12, 1973.

In the Notice of Further Postponement of Hearing, issued January 5, 1973, and published in the FEDERAL REGISTER January 12, 1973, 38 FR 1408 in the second line, please change "February 11, 1973 to February 12, 1973".

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1362 Filed 1-23-73;8:45 am]

[Docket No. E-7927]

CONNECTICUT LIGHT AND POWER CO.

Notice of Initial Rate Schedule Filing

JANUARY 16, 1973.

Take notice that the Connecticut Light and Power Co. (Company) tendered for filing on December 20, 1972, as an Initial Rate Schedule a Purchase Agreement with respect to Montville Unit No. 6, dated November 1, 1972. The Agreement between the Company and Consolidated Edison Company of New York (Con Ed), provides for sales to Con Ed of specified percentages of capacity and energy from its Montville Unit No. 6 generating unit during the period from December 1, 1972, through April 30, 1973. The Company proposed to make the tendered rate schedule effective as of December 1, 1972.

The Company states that in order to permit Con Ed to receive urgently needed capacity it also is requesting waiver of the 30-day notice requirement of the Commission's regulations. Questions as to the Company's capacity responsibility obligation for the 12-month period ending October 31, 1973, under the terms of the New England Power Pool (NEPOOL) Agreement were not resolved until October 27, 1972. This delay affected the amounts of capacity from Montville Unit No. 6 that could be sold by the Company and this delayed execution of the Agreement and the date of this filing.

The Company states that copies of this filing were served on Con Ed.

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 January 24, 1973. 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 are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1361 Filed 1-23-73;8:45 am]

[Docket Nos. RP72-150, etc.]

EL PASO NATURAL GAS CO.

Notice of Extension of Time and Postponement of Hearing; Correction

DECEMBER 1, 1972.

In the notice of extension of time and postponement of hearing, issued December 1, 1972 and published in the FEDERAL REGISTER December 7, 1972, 37 FR (26057); Please change the "Docket No. RP72-150, *et al.*," to "Docket No. RP72-151," for Hearing and Commencement of Cross-Examination on March 20, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1363 Filed 1-23-73;8:45 am]

[Docket No. CI73-470]

HARVEY BROYLES

Notice of Application

JANUARY 18, 1973.

Take notice that on January 11, 1972, Harvey Broyles (Applicant), Post Office Box 1511, Shreveport, LA 71165, filed in Docket No. CI73-470 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Southern Natural Gas Co. (Southern), from the Bear Creek Field, Bienville Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that he has sold natural gas to Southern from the subject producing properties from January 17, 1972, through January 17, 1973, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70) and that he proposes to sell up to 5,000 Mcf of gas per day for another year at the rate of 35.0 cents per Mcf at 15.025 p.s.i.a. within the contemplation of said policy.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1479 Filed 1-23-73;8:45 am]

[Docket No. CI72-715]

COMMERCIAL SOLVENTS CORP.

Order Granting Intervention, Setting Hearing Date and Prescribing Procedure

JANUARY 18, 1973.

On May 1, 1972, Commercial Solvents Corp. (Commercial), filed an application in Docket No. CI72-715 pursuant to section 7(b) of the Natural Gas Act seeking permission and approval of the Commission to abandon its gas sales made under a 1947 contract from 12 wells located in the Monroe Gas Field, Union Parish, LA. to Ashland Oil, Inc. (Ashland). Ashland resells the gas to Southern Natural Gas Co. (Southern). In support of its application, Commercial alleges that the wells can no longer be economically operated.

Timely petitions requesting permission to intervene in these proceedings were filed by Ashland on May 31, 1972, and by Southern on June 5, 1972. Ashland opposes the proposed abandonment on the ground that if the abandonment is permitted, its annual deliveries to Southern will be reduced. Southern opposes the proposed abandonment on the ground that it currently purchases gas from Ashland, a part of which comprises gas from Commercial.

Because of the allegation of uneconomical operation, an appropriate issue to be explored during the course of these proceedings is what rate increase, if any, would be necessary to make the sale and delivery of gas economically feasible.

The Commission finds:

(1) It is desirable and in the public interest to allow Ashland and Southern to intervene in this proceeding.

(2) It is necessary and proper in the public interest and to aid in enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders:

(A) Ashland and Southern are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That their participation shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing on the issues presented in the application will be held commencing February 20, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426. An Administrative Law Judge to be designated by the Chief Administrative Law Judge shall preside at, and control, this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(C) On or before February 2, 1973, Commercial shall prepare and serve its direct testimony and exhibits in support of its application.

(D) The intervenors shall prepare and serve their prepared testimony and exhibits, if any, in support of their positions and in response to the submittals made in compliance with ordering paragraph (C) above on all parties to this proceeding, on or before February 15, 1973. All evidence shall be filed with the Commission and served on all parties and the Commission Staff.

By the Commission.

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

[FR Doc.73-1491 Filed 1-23-73;8:45 am]

[Docket No. RP73-72]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Proposed Changes in Rates and Changes

JANUARY 18, 1973.

Take notice that Consolidated Gas Supply Corp. (Consolidated), on January 5, 1973, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 52-E, Second Revised Sheet No. 53, and First Revised Sheet No. 53-A. The filing consists of a proposed transportation charge adjustment clause which would permit Consolidated to adjust, without having to make a general rate increase filing, its rates to reflect changes in cost which, Consolidated states, will increase as a result of transportation by others of new supplies of natural gas to Consolidated's system. Further, Consolidated states that the proposed rate adjusting authority is limited to the transportation service authorized by the Commission in Docket No. CP72-183, et al. on August 23, 1972.

Consolidated requests waiver of the Commission's regulations necessary to permit the proposed tariff sheets to become effective on February 4, 1973.

Consolidated states that copies of this filing were issued in its jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, 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 January 25, 1973. 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 are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-1488 Filed 1-23-73;8:45 am]

[Docket No. RP72-6]

EL PASO NATURAL GAS CO.

Order Setting Expedited Hearing on Amended Motion for Extraordinary Relief

JANUARY 11, 1973.

On August 18, 1972, City of Willcox, Ariz. (Willcox) and Arizona Electric Power Cooperative, Inc. (AEPCO) filed a joint motion for extraordinary relief on an interim basis from the operation of proposed revised tariff sheets submitted by the El Paso Natural Gas Co. (El Paso) which would allocate the firm reliable mainline capacity of El Paso's Southern Division system and would establish new priorities of service to be utilized in the event a gas supply shortage necessitates curtailment of deliveries below that capacity. In support of the motion, it alleged that AEPCO was unable to obtain a supply of fuel oil sufficient to meet its electric generation needs and that the reliability of its electric service would be adversely affected if special provision was not made.

On September 1, 1972, the Commission issued an order in this docket reopening the record herein for the purpose of adducing evidence on the need for an interim emergency curtailment plan for the Southern Division system and setting September 12, 1972, as the date for the beginning of a hearing thereon. By order dated September 7, 1972, the Commission ordered that consideration also be given to the claim of Willcox and AEPCO. Hearings were held on these issues between September 12, 1972, and September 25, 1972.

On October 31, 1972, the Commission issued Opinion No. 634, in which it denied the joint petition stating that the record did not entitle the parties to the relief sought. The Commission further stated that the parties were free to renew their petition at a later period should they be able to make a more persuasive showing.

On November 30, 1972, as a part of their joint response to Opinion No. 634, Willcox and AEPCO included their Amended Motion for Extraordinary Relief. Therein it is alleged that while AEPCO is now able to acquire alternate fuel supplies, it still is in need of extraordinary relief. As the primary reason therefor, AEPCO states that it is unable to operate reliably and safely during sustained periods on fuel oil.

As noted in Opinion No. 634-A, a public hearing to determine the merits of the Amended Motion would be set by separate order. Accordingly we adopt the procedures prescribed below.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing to determine whether the public convenience and necessity require the grant of the extraordinary relief sought.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18

CFR Ch. 1), a public hearing shall be held commencing on January 30, 1973, at 10 a.m., e.s.t. in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426 to determine whether the public convenience and necessity require the extraordinary relief sought.

(B) On or before January 22, 1973, the City of Willcox, Ariz., and Arizona Electric Power Cooperative, Inc. shall file with the Commission and serve on all parties, including staff, such testimony and exhibits as they may choose to proffer in support of its proposed extraordinary relief. The Commission Staff and all other interested parties shall prepare and have available for all participants their testimony and exhibits, if any, at the beginning of the hearing and should attempt to make such information available at an earlier date if possible.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

By the Commission.

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

[FR Doc.73-1480 Filed 1-23-73;8:45 am]

[Docket No. CP73-175]

LONE STAR GAS CO.

Notice of Application

JANUARY 17, 1973.

Take notice that on January 2, 1973, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, TX 75201, filed in Docket No. CP73-175 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the operation of certain facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks permission and approval to abandon the facilities of the Katie Transmission Compressor Station, consisting of two 220-horsepower compressor units and associated piping and equipment, located in Garvin County, Okla. Applicant states that the facilities are to be removed and salvaged for use elsewhere on Applicant's pipeline system.

Applicant further states that the proposed abandonment of facilities will not result in the abandonment or any diminution of natural gas service from Applicant's transmission pipeline system to any of Applicant's customers. It is stated that the approximate cost of the proposed abandonment is $6,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1973, 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 permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-1482 Filed 1-23-73;8:45 am]

[Docket No. CP73-176]

LONE STAR GAS CO.

Notice of Application

JANUARY 17, 1973.

Take notice that on January 2, 1973, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, TX 75201, filed in Docket No. CP73-176 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the purpose of relocating a portion of its existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the Department of Army, Corps of Engineers, has requested Applicant to relocate 3.8 miles of its existing 20-inch line T pipeline which underlies the construction site of the Waurika Dam and Reservoir on Beaver Creek, near the town of Waurika, Jefferson County, Okla. Applicant proposes to relocate this segment of line T by constructing approximately 7.5 miles of 20-inch pipeline around the proposed dam and reservoir.

It is stated that the estimated cost of relocating such natural gas pipeline facilities is $811,830 and that Applicant will enter into a cost reimbursable contract with the Corps of Engineers under which Applicant will be repaid its actual costs of relocation less appropriate credits. Applicant states that other costs will be financed from working capital.

Applicant also states that its operating and delivery capabilities will not be changed by the construction and operation of the facilities proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1973, 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.73-1484 Filed 1-23-73;8:45 am]

[Docket No. E-7963]

LONG ISLAND LIGHTING CO.

Notice of Initial Rate Schedule Filing

JANUARY 18, 1973.

Take notice that Long Island Lighting Co. (Long Island or LILCO) on January 8, 1973, tendered for filing as a proposed initial rate schedule an agreement between Long Island and Central Hudson Gas and Electric Corp. (Central Hudson). The proposed rate would provide for the sale by Long Island to Central Hudson of electric generating capability from gas turbines installed on Long Island's system. The proposed rate is described in the company's transmittal letter as providing for Long Island to furnish 93,000 kw. of electric generating

capability from Long Island's gas turbines. Long Island states that the agreement was arrived at by negotiations between the parties. The charges for the service as set out in the tendered agreement are as follows:

1. *Capability charge.* Central Hudson shall pay LILCO a Capability Charge of $444,000 for the Contract Capability of 93 MW. for the period January 1, 1973, thru April 28, 1973. Payments shall be in four equal monthly installments.

2. *Energy charge.* Central Hudson shall pay LILCO for each kilowatt-hour of energy delivered, whether from gas turbines or other LILCO generating units, an Energy Charge equal to the Incremental Cost of producing such energy multiplied by 1.00 for energy from any gas turbines and 1.10 for energy from any steam units. The "Incremental Cost" shall mean the cost of fuel, maintenance, losses between the point of delivery and when applicable, the cost of starting up and shutting down boilers and turbines, equipment no-load losses, incremental operating costs incurred in connection with the supply of energy scheduled hereunder.

3. *Operating reserve charge.* Whenever Central Hudson schedules operating reserve without scheduling any energy, it shall pay LILCO any applicable out-of-pocket costs incurred in providing such operating reserve. This payment shall be in addition to the payment under "Capability Charge" above.

Finally, Long Island requests waiver of the Commission's advance notice requirements so that the proposed rate can be effective as of January 1, 1973. Long Island states the service will terminate on April 28, 1973.

Long Island states that copies of this proposed rate have been mailed to Central Hudson.

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 February 5, 1973. 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 are available for public inspection in the offices of the Federal Power Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1486 Filed 1-23-73;8:45 am]

[Docket No. E-7734]

MID-CONTINENT AREA POWER POOL AGREEMENT

Notice of Further Extension of Time

JANUARY 15, 1973.

On December 29, 1972, counsel for the Alexandria Board of Public Works, Minnesota et al., filed a motion for change of dates as fixed by the order issued on September 26, 1972, as amended by notice issued October 31, 1972, in the above matter. The motion states that counsel for movants is authorized to state that staff counsel, counsel for applicants and counsel for the city of St. Paul, Minn., have no objection to the motion.

Upon consideration, notice is hereby given that the procedural dates as set out in the order issued September 26, 1972, as amended by notice issued October 31, 1972, are further modified as follows:

Service of prepared testimony by interveners, April 23, 1973.
Service of prepared testimony by applicant, June 22, 1973.
Service of testimony by staff, July 13, 1973.
Service of rebuttal evidence, August 9, 1973.
Prehearing conference, August 13, 1973.
Commencement of cross-examination, September 17, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1481 Filed 1-23-73;8:45 am]

[Docket No. RP73-76]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Proposed Changes in FPC Gas Tariff

JANUARY 17, 1973.

Take notice that Midwestern Gas Transmission Co., on December 29, 1972, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 to become effective March 1, 1973. The proposed changes would increase revenues from its Southern System jurisdictional sales and service by approximately $237,000 annually based on sales and service for the 12-month period ending November 30, 1972.

Midwestern states that the instant filing is made pursuant to the terms of its Settlement Agreement dated September 17, 1971, and is necessitated in order for the company to track increased costs of purchased gas from its Southern supplier, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

Copies of the filing were served upon the company's affected jurisdictional customers and State regulatory commissions.

Any person desiring to be heard or to protest said filing 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 February 14, 1973. 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 are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1490 Filed 1-23-73;8:45 am]

[Docket No. CP73-173]

MOUNTAIN FUEL SUPPLY CO.

Notice of Application

JANUARY 17, 1973.

Take notice that on January 2, 1973, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, UT 84111, filed in Docket No. CP73-173 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation, and operation of a 1,100 horsepower gas-turbine driven centrifugal compressor and the necessary auxiliary equipment and the installation of eight new compressor cylinders in four existing compressors, together with modifications of the auxiliary equipment and piping, at Applicant's Eakin Station, Uinta County, Wyo., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the eight new compressor cylinders will be installed in four existing compressor units to enable Applicant to operate the Eakin Compressor Station at discharge pressure up to 732 p.s.i.a., for subsequent delivery to transmission lines and to operate the booster compressor unit at pressure up to 712 p.s.i.a. Applicant states further that the 1,100 horsepower compressor will be used to compress pipeline gas received from El Paso Natural Gas Co., for commingling with the gas discharge from the Eakin Station at pressures up to 712 p.s.i.a.

Applicant estimates that the cost of the proposed facilities will be approximately $810,000 which will be financed from funds on hand as well as from any short-term borrowing that may be necessary. Applicant proposes to commence construction of the proposed facilities as soon as practicable after receipt of the authorization requested herein in order that said facilities can be placed in operation by September 1, 1973.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1973, 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.73-1483 Filed 1-23-73;8:45 am]

[Docket No. CP73-185]

NEW ENGLAND LNG CO., INC.

Notice of Application

JANUARY 18, 1973.

Take notice that on January 15, 1973, New England LNG Co., Inc. (Applicant), 95 East Merrimack Street, Lowell, MA 01853, filed in Docket No. CP73-185 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of approximately 170,000 Mcf vaporous gas equivalent of liquefied natural gas (LNG) to Connecticut Natural Gas Corp. (CNG Corp.), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has stored LNG at CNG Corp.'s storage facilities in Rocky Hill, Conn., during the 1972-73 heating season, pursuant to a letter agreement dated June 30, 1972, and that in return therefor CNG Corp. was given the option to purchase one-third of the total quantity so stored. Applicant further states that in a letter of intent dated November 28, 1972, CNG Corp. advised Applicant of its desire to exercise its option and purchase in place approximately 170,000 Mcf of LNG from Applicant. CNG Corp. will use the LNG to meet its 1972-73 winter requirements.

It is stated that the proposed sale of LNG will not require any construction or acquisition of equipment by either the Applicant or CNG Corp.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1973, 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.73-1478 Filed 1-23-73;8:45 am]

[Docket No. E-7856]

NORTHERN STATES POWER CO.

Notice of Proposed Changes in Rates and Charges

JANUARY 18, 1973.

Take notice that Northern States Power Co. (NSP), tendered for filing on July 24, 1972, as supplemented on September 11, 1972, proposed changes to its FPC Electric Rate Schedules Nos. 37, 38 (Supplement No. 1), 40, 42, 45, 47-49, 51, 52, and 54. The filing consists of a First Revised Fuel Clause which is intended to supersede the Fuel Clause in the above rate schedules. NSP requests this filing become effective on July 1, 1972, or the earliest possible date.

NSP states that copies of this filing were served on each municipal customer and the Public Service Commission of Wisconsin.

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 February 6, 1973. 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 are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1489 Filed 1-23-73;8:49 am]

[Docket No. E-7967]

WESTERN MASSACHUSETTS ELECTRIC CO.

Notice of Rate Schedule Cancellation

JANUARY 18, 1973.

Take notice that Western Massachusetts Electric Co. (WMECo) on December 22, 1972, requested cancellation of its FPC Rate Schedule No. 68. WMECo's notice of cancellation to the Commission is hereinafter set forth:

In accordance with § 35.15 of the Commission's regulations notice of termination of the above named schedule, effective December 19, 1972, is hereby provided. A list of the purchasers affected by this termination is as follows:

City of Westfield, Gas and Electric Department, Westfield, Mass.

FPC Rate Schedule No. 68 provides that it shall terminate of its own accord at "such time as WMECo.'s 115,000-volt transmission line from the tap point on the Blandford-Southwick line to the Elm Substation is considered to be part of WMECo.'s portion of the Vermont and Maine sponsors Maine transmission agreements or successor agreements." On December 19, 1972, WMECo. completed construction on and placed in service its 115-kv. transmission line from Elm Substation to Agawam. By so doing the above mentioned Blandford-Southwick to the Elm Substation line was looped to Agawam and thus became part of the Main Line Transmission System. Accordingly the Subtransmission Agreement, FPC No. 68, was automatically terminated.

Inasmuch as the termination date was contingent upon construction of the Elm Substation to Agawam line the company requests the Commission waive its advance notice requirement and allow the termination to be effective as of December 19, 1972.

Any person desiring to be heard or to protest said cancellation 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 (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before February 5, 1973. 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 Western Massachusetts' affected customers and interested State commissions. Copies are on file with the Federal Power Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1487 Filed 1-23-73;8:45 am]

FEDERAL TRADE COMMISSION

REGIONAL OFFICES

Change of Addresses

Notice is hereby given that paragraph (b) of section 18 of the Statement of Organization, published May 18, 1971 (36 FR 9044), as amended August 3, 1971 (36 FR 14286) and August 18, 1971 (36 FR 15768), is amended to read as follows:

SEC. 18. *The Regional Offices.* * * *

(b) The addresses of the respective regional offices, and of the field stations located in the area of each are as follows:

(1) *Atlanta Regional Office.* Federal Trade Commission, Room 720, 730 Peachtree Street NE., Atlanta, GA 30308. Field Stations: Federal Trade Commission, Room 206, 623 East Trade Street, Charlotte, NC 28202; Federal Trade Commission, Room 105, 995 Northwest 119th Street, Miami, FL 33168; Federal Trade Commission, Room 209, Federal Office Building, Post Office Box 568, Oak Ridge, TN 37830.

(2) *Boston Regional Office.* Federal Trade Commission, Room 2200–C, John Fitzgerald Kennedy Federal Building, Government Center, Boston, Mass. 02203.

(3) *Chicago Regional Office.* Federal Trade Commission, Suite 1437, 55 East Monroe Street, Chicago, IL 60603.

(4) *Cleveland Regional Office.* Federal Trade Commission, Room 1339, Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199. Field Station: Federal Trade Commission, 333 Mount Elliott Avenue, Detroit, MI 48207.

(5) *Dallas Regional Office.* Federal Trade Commission, Room 452–B, 500 South Ervay Street, Dallas, TX 75201. Field Station: Federal Trade Commission, Federal Center Building 3, 630 South Main Avenue, San Antonio, TX 78204.

(6) *Kansas City Regional Office.* Federal Trade Commission, Room 2806, Federal Office Building, 911 Walnut Street, Kansas City, MO 64106. Field Stations: Federal Trade Commission, Room 1414, 210 North 12th Street, St. Louis, MO 63101; Federal Trade Commission, Room 18013, Federal Office Building, 1961 Stout Street, Denver, CO 80202.

(7) *Los Angeles Regional Office.* Federal Trade Commission, Room 13209, Federal Building, 11000 Wilshire Boulevard, Los Angeles, CA 90024. Field Stations: Federal Trade Commission, Room 828, Amerco Towers Building, 2721 North Central Avenue, Phoenix, AZ 85004; Federal Trade Commission, Room 1132, Bank of America Building, 625 Broadway, San Diego, CA 92101.

(8) *New Orleans Regional Office.* Federal Trade Commission, Room 1000, Masonic Temple Building, 333 St. Charles Street, New Orleans, LA 70130.

(9) *New York Regional Office.* Federal Trade Commission, 22d Floor Federal Building, 26 Federal Plaza, New York, NY 10007. Field Station: Federal Trade Commission, Room 221, Federal Building, 111 West Huron Street, Buffalo, NY 14202.

(10) *San Francisco Regional Office.* Federal Trade Commission, 450 Golden Gate Avenue, Box 36005, San Francisco, CA 94102. Field Station: Federal Trade Commission, Room 605, Melim Building, 333 Queen Street, Honolulu, HI 96813.

(11) *Seattle Regional Office.* Federal Trade Commission, Suite 908, Republic Building, 1511 Third Avenue, Seattle, WA 98101. Field Station: Federal Trade Commission, 231 U.S. Courthouse, Portland, OR 97205.

(12) *Washington, D.C. Regional Office.* Federal Trade Commission, Sixth Floor, Gelman Building, 2120 L Street NW., Washington, DC 20037. Field Station: Federal Trade Commission, 1406 Bankers Security Building, 1315 Walnut Street, Philadelphia, PA 19107.

By direction of the Commission dated January 17, 1973.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73–1440 Filed 1–23–73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73–7)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, MATERIALS AND STRUCTURES COMMITTEE

Notice of Meeting

The Materials and Structures Committee of the NASA Research and Technology Advisory Council will meet on February 6 and 7, 1973, at the NASA Langley Research Center, Hampton, Va. The meeting will be held in Room 225 of the Headquarters Building No. 1219. Members of the public will be admitted to the open portion of the meeting beginning at 8:30 a.m. 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 the receptionist in Building 1219.

The NASA Research and Technology Advisory Committee on Materials and Structures serves in an advisory capacity only. In this capacity, the Committee is concerned with materials science, materials engineering, advanced concepts and materials applications, structural design and analysis, and structural loads and dynamics. The current Chairman is Mr. Ira G. Hedrick. There are 17 members. The following list sets forth the approved agenda and schedule for the February 6 and 7, 1973 meeting. For further information please contact Mr. George C. Deutsch: Area Code 202/755–3264.

February 6, 1973

Time	*Topic*
8:30 a.m....	Chairman and Executive Secretary's Reports—(Purpose: To review results of RTAC meeting, developments of intercommittee activities, and NASA policies, programs, and organizational changes).
9:00 a.m....	Review of Materials and Structures Committee Activities on: a. Fracture Control—(Purpose: Discussion of NASA plans to implement Committee and Panel recommendations on fracture control technology). b. Aerospace Vehicle Dynamics and Control—(Purpose: To review status report of Joint Ad Hoc Panel on interdisciplinary aspects of dynamics and control of space vehicles and aircraft).
11:00 a.m....	Integrated Program for Aerospace Vehicle Design (IPAD)—(Purpose: To review progress on current studies for complete computerized aerospace vehicle design).
1:30 p.m....	Langley Research Center Program Review and Tour—(Purpose: Review of advanced research programs and inspection of research facilities). (Closed session to discuss funding, programmatic detail and classified data.)

February 7, 1973

8:00 a.m....	Tramp Elements in Fuels and Alloys—(Purpose: To review potential material degradation and pollution problems resulting from trace elements and impurities in fuels and alloys from foreign sources).
8:45 a.m....	Committee Review of Center Reports—(Purpose: To discuss progress in research programs as reported by NASA Center members and identify new problem areas).
10:30 a.m....	New Problem Areas—(Purpose: To discuss new technology needs as identified by members and NASA Center representatives and recommend future action).
1:30 p.m....	Member Reports—(Purpose: To review and discuss data reported by university and industry members as it pertains to current and future NASA programs). (Closed session to discuss funding, programmatic detail and classified data.)
3:00 p.m....	Adjourn.

HOMER E. NEWELL, *Associate Administrator, National Aeronautics and Space Administration.*

JANUARY 16, 1973.

[FR Doc.73–1408 Filed 1–18–73;8:45 am]

OFFICE OF EMERGENCY PREPAREDNESS

ALFRED HAHN

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the Pres-

ident under Executive Order 11575, December 31, 1970 (36 FR 37, Jan. 5, 1971) to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), I hereby appoint Alfred Hahn as Federal Coordinating Officer to perform the duties specified by section 201 of that Act for West Virginia disaster No. 344 with date of declaration, July 3, 1972, effective January 15, 1973.

This notice changes my designation of July 6, 1972 (37 FR 13659, July 12, 1972), with respect to the same disaster listed, naming Richard E. Sanderson as Federal Coordinating Officer.

Dated: January 18, 1973.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.73-1447 Filed 1-23-73;8:45 am]

ALFRED HAHN

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 FR 37, January 5, 1971) to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), I hereby appoint Alfred Hahn as Federal Coordinating Officer to perform the duties specified by section 201 of the Act for West Virginia disaster No. 349 with date of declaration, August 23, 1972, effective January 15, 1973.

This notice changes my designation of August 25, 1972 (37 FR 17783, August 31, 1972), with respect to the same disaster listed, naming Richard E. Sanderson as Federal Coordinating Officer.

Dated: January 18, 1973.

G. A. LINCOLN, *Director,*
Office of Emergency Preparedness.

[FR Doc.73-1448 Filed 1-23-73;8:45 am]

NUCLEAR INCIDENT PLANNING—FIXED FACILITIES

Notice of Interagency Responsibilities

The following notice of interagency responsibilities is issued by the Office of Emergency Preparedness in order to provide full public information concerning the general course and method by which certain nuclear incident planning responsibilities are channeled and determined (5 U.S.C. 552(a)(1)(B)).

Purpose.—This statement sets forth the responsibilities as agreed between certain Federal agencies in connection with fixed facility nuclear incident planning at the Federal level and for the provision of planning assistance to State and local governments.

Background.—Formal statement of the respective roles of the various Federal departments and agencies is made in connection with the role of the Office of Emergency Preparedness in coordinating the emergency planning efforts of the Federal agencies as assigned by Executive Order 11051. Current planning activities are taking place at all levels of Government as well as in private industry. At the Federal level, several agencies have been cooperating on an informal, ad hoc basis to lend assistance to State and local governments in nuclear incident planning.

Responsibilities.—The Atomic Energy Commission will be the lead operating agency in nuclear incident planning activities among Federal agencies and in Federal assistance to State and local governments, and the Office of Emergency Preparedness will exercise general monitorship of these activities. Responsibilities of AEC, OEP and other Federal agencies are detailed below.

The Atomic Energy Commission will be responsible for:

1. Issuance of instructions on nuclear incident planning to other Federal agencies related to national level planning and related to their responsibilities and authorities in dealing with State and local governments.

2. Development and promulgation of guidance to States and localities, in coordination with other Federal agencies, for the preparation of radiological emergency response plans.

3. Review and concurrence with such plans. (Proper correlation among State, local government, licensee, and national plans, e.g., Interagency Radiological Assistance Plan (IRAP), is an element of this review.)

4. On the technical side:

a. Determination of the accident potential at each fixed nuclear facility.

b. Issuance of guidance for establishment of effective systems of radiation detection and measurement in nuclear incidents.

The Environmental Protection Agency will be responsible for:

1. Establishment of Action guidelines based on projected radiation exposure levels which might result from nuclear incidents.

2. Recommendations as to appropriate protective measures which can be taken by governmental authorities to ameliorate the consequences of an incident and reduce the potential population exposure in consideration of the possible radiation levels.

3. Assistance to State health departments or other State agencies that have responsibilities for radiological response, in the development of their emergency plans, following the guidelines issued by AEC.

4. Cooperation with AEC in establishment of radiation detection and measurement systems.

The Department of Health, Education, and Welfare will be responsible for:

1. Assistance to State health departments, State hospital associations, and other professional organizations, and ambulance services, in the development of plans for the prevention of adverse effects from exposure to radiation and for health and medical care responses to nuclear incidents consistent with guidelines issued by AEC and plans of other agencies.

2. Recommendations as to appropriate planning actions necessary for evaluation, prevention and control of radioactive contamination of foods, drugs, and animal feeds.

3. Collaboration with EPA in the determination of radiation exposure levels related to the health and safety of ambulance services and hospital personnel.

4. Cooperation with AEC in establishing radiation detection and measurement systems for ambulance services and hospital emergency departments.

The Defense Civil Preparedness Agency will be responsible for:

1. Assistance to State and local authorities in planning the general emergency preparedness actions required in response to nuclear incidents, consistent with AEC guidance.

2. Recommendations and guidance on the use of the civil defense radiological monitoring system.

The Office of Emergency Preparedness will exercise general monitorship of Federal nuclear planning activities. This will include:

1. Review and endorsement of AEC policy directives to other Federal agencies and policy guidance to States.

2. Assistance in resolving Federal interagency or Federal-State problems when necessary to the fulfillment of AEC's assigned mission.

3. Encouragement of States to produce nuclear incident plans as part of their general State emergency planning.

4. Assistance to AEC in developing priorities among those areas where nuclear incident planning is required.

5. Facilitating State and local contacts for AEC.

Other Federal agencies will be involved in specific instances of nuclear incident planning participation and assistance in accordance with their basic responsibilities and functions. Details of such participation as part of the coordinated Federal effort will be a development of each localized planning activity.

Dated: January 17, 1973.

G. A. LINCOLN, *Director,*
Office of Emergency Preparedness.

[FR Doc.73-1384 Filed 1-23-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

DCS FINANCIAL CORP.

Order Suspending Trading

JANUARY 17, 1973.

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 Corporation 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 January 18, 1973, through January 27, 1973.

By the Commission.

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

[FR Doc.73-1454 Filed 1-23-73;8:45 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

JANUARY 17, 1973.

The common stock, $0.10 par value of Goodway Inc. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 18, 1973, through January 27, 1973.

By the Commission.

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

[FR Doc.73-1455 Filed 1-23-73;8:45 am]

[Files Nos. 2-45160, 22-7275]

J. RAY McDERMOTT & CO., INC.

Notice of Application and Opportunity for Hearing

JANUARY 17, 1973.

Notice is hereby given that J. Ray McDermott & Co., Inc. (the Company) has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the Act) for a finding by the Commission that the trusteeship of First National City Bank (FNCB) under an Indenture dated as of August 15, 1972 (the August 1972 Indenture), heretofore qualified under the Act, and under an Indenture dated as of October 16, 1972 (the October 1972 Indenture), not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify FNCB from acting as trustee under both Indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Act), it shall within 90 days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of such issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under both Indentures.

The Company alleges that:

(1) The Company has issued and outstanding $60 million principal amount of its 4¼ percent Convertible Subordinated Debentures due August 15, 1997 issued under an indenture dated as of August 15, 1972 (the August 1972 Debentures) between the Company and FNCB, which has been qualified under the Act and $30 million principal amount of its 4¾ percent Convertible Subordinated Debentures due 1987 issued under an indenture dated as of October 16, 1972 (the October 1972 Debentures). The October 1972 Debentures were sold outside the United States and the October 1972 Indenture is not qualified under the Act.

(2) The August 1972 and October 1972 Indentures are wholly unsecured. All Debentures issued and outstanding under said Indentures rank on a parity with each other. The Company is not in default under either of said Indentures. Except for differences as to amounts, interest rates, maturity dates, dates and places of payment of principal, premium and interest, redemption dates, redemption procedures, redemption prices and conversion prices, the Indentures are with certain exceptions substantially identical. These, among others, are exceptions.

(a) The October 1972 Debentures contain interest equalization tax notices which are not contained in the August 1972 Debentures.

(b) The October 1972 Indenture contains a provision permitting the Company to redeem the October 1972 Debentures, without premium, if the Company determines that it would otherwise be required to make additional interest payments as a result of changes in certain United States tax laws (section 4.01 and form of Debenture). No such provision is contained in the August 1972 Indenture.

(c) The October 1972 Indenture provides for the payment of additional interest to insulate holders of the October 1972 Debentures from certain United States taxes in certain cases (section 6.03). No such provision is contained in the August 1972 Indenture.

(d) The October 1972 Indenture contains a covenant that the Company will maintain its United States citizenship within the meaning of section 2 of the Shipping Act of 1916, as amended, sections 37 and 38 of the Merchant Marine Act, 1920 and section 905(c) of the Merchant Marine Act, 1936, as amended (section 6.12). No such provision is contained in the August 1972 Indenture.

(e) Each of the August 1972 and October 1972 Indentures contains a provision which, in effect, makes a default in the payment of interest, principal or premium, if any, or in making a sinking fund or redemption payment which results in the acceleration of the maturity of the Debentures under one such Indenture an Event of Default under the other Indenture.

(3) Such differences as exist between the August 1972 Indenture and the October 1972 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify FNCB from acting as trustee under both Indentures.

(4) The Company has waived notice of hearing and hearing in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Office of the Commission, at 500 North Capitol Street, Washington DC 20549.

Notice is further given that any interested person may, not later than February 6, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

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

[FR Doc.73-1456 Filed 1-23-73;8:45 am]

[70-5262]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Debentures at Competitive Bidding

JANUARY 17, 1973.

Notice is hereby given that Jersey Central Power & Light Co. (Jersey Central), Madison Avenue at Punch Bowl

Road, Morristown, NJ 07960, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Jersey Central proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $30,000,000 principal amount of Debentures — percent Series due 1998. The interest rate (which will be a multiple of ⅛ of 1 percent) and the price (which will be not less than 100 percent nor more than 102.75 percent of the principal amount thereof plus accrued interest from March 1, 1973, to the date of delivery) will be determined by the competitive bidding. The debentures will be issued under the Indenture, dated as of October 1, 1963, of Jersey Central to Irving Trust Co., Trustee, as heretofore supplemented and as to be further supplemented by a Fifth Supplemental Indenture to be dated as of March 1, 1973, and which includes, subject to certain exceptions, a prohibition until March 1, 1978, against refunding the issue with proceeds of funds borrowed at a lower interest cost.

The entire proceeds, excluding premium and accrued interest, realized from the sale of the new debentures ($30,000,000) will be used to prepay a portion of Jersey Central's short-term bank loans of which approximately $55,000,000 is expected to be outstanding at the date of such sale. The proceeds of the bank loans which are thus to be prepaid have been or will be used for construction purposes or to reimburse Jersey Central's treasury for expenditures therefrom for construction purposes. Premium resulting from the sale of the debentures will be used for financing the business of Jersey Central, including the payment of expenses in effecting the sale of the debentures. The estimated cost of Jersey Central's 1973 construction program is approximately $187,000,000.

It is stated that the fees and expenses to be paid by Jersey Central in connection with the issue and sale of debentures and the fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment.

It is further stated that the Board of Public Utility Commissioners of New Jersey has jurisdiction over the proposed issue and sale of debentures by Jersey Central and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 14, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant 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, as amended, or as it may be further amended, may be granted 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.73-1457 Filed 1-23-73;8:45 am]

[File No. 500-1]

PELOREX CORP.

Order Suspending Trading

JANUARY 16, 1973.

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 Pelorex 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 12 noon e.s.t., on January 16, 1973 through January 25, 1973.

By the Commission.

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

[FR Doc.73-1458 Filed 1-23-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30, Region VIII; Amdt. 1]

REGIONAL DIRECTOR ET AL.

Delegation of Authority to Conduct Program Activities in Region VIII

Delegation of Authority No. 30, Region VIII (37 FR 17620), is hereby amended by revising Parts II and VIII in their entirety and by amending Section A-3 and Sections B-1 and B-3 of Part I.

PART I—FINANCING PROGRAM

SECTION A. *Loan approval authority*

* * * * *

3. *Displaced Business and Other Economic Injury Loans.* a. To decline displaced business loans, coal mine health and safety loans, consumer protection loans (meat, egg, poultry), occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury loans in connection with declarations made by the Secretary of Agriculture for natural disasters in any amount and to approve such loans up to the following amounts (SBA share):

(1) Regional Director	$1,000,000
(2) Chief and Assistant Chief, Regional Financing Division	350,000

b. To approve or decline displaced business loans, coal mine health and safety loans, consumer protection loans (meat, egg, poultry), occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to the following amounts (SBA share):

(1) Regional Supervisory Loan Officer	$50,000
(2) District Director	350,000
(3) Chief, District Financing Division	350,000

SEC. B. Other financing authority. 1. a. To enter into business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), coal mine health and safety, occupational health and safety, and strategic arms limitation economic injury loan participation agreements with banks:

(1) Regional Director.
(2) Chief and Assistant Chief, Regional Financing Division.
(3) Regional Supervisory Loan Officer.
(4) District Director.
(5) Chief, District Financing Division.

* * * * *

3. *Cancel, reinstate, modify, and amend authorizations.* a. To cancel, reinstate, modify, and amend authorizations

for all loans, i.e., business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), coal mine health and safety, occupational health and safety, and strategic arms limitation economic injury loans:

(1) Regional Director.
(2) Chief and Assistant Chief, Regional Financing Division.
(3) Regional Supervisory Loan Officer.
(4) District Director.
(5) Chief, District Financing Division.

* * * * *

b. For fully undisbursed or partially disbursed business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), occupational safety and health, coal mine health and safety loans, and strategic arms limitation economic injury loans:

(1) District Director.
(2) Chief and Assistant Chief, Regional Financing Division.
(3) Regional Supervisory Loan Officer.
(4) Chief, District Financing Division.

c. For business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), coal mine health and safety, occupational safety and health loans personally approved under delegated authority and strategic arms limitation economic injury loans:

(1) None.

* * * * *

PART II—DISASTER PROGRAM

SEC. A. *Disaster loan authority.* 1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of

(1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except' for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and

(2) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan.

(1) Chief, Regional Financing Division.
(2) Assistant Chief, Regional Financing Division.
(3) District Director.
(4) Chief, District Financing Division.
(5) Branch Manager.
(6) Disaster Branch Manager, as assigned.

2. To decline direct disaster and immediate participation disaster loans (excluding displaced business loans, coal mine health, and safety, occupational safety and health, strategic arms limitation economic injury loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) in any amount and to approve such loans up to the total SBA funds of $50,000:

(1) Regional Supervisory Loan Officer.
(2) Supervisory Loan Officer, Rapid City Branch Office only.
(3) Supervisory Loan Officer, Disaster Branch Office as assigned.

3. To decline disaster guaranteed loans in any amount and to approve such loans up to an SBA guarantee of the following amounts:

(1) Regional Director	$1,000,000
(2) Chief, Regional Financing Division	350,000
(3) Assistant Chief, Reg. Financing Division	350,000
(4) District Director	350,000
(5) Chief, District Financing Division	350,000
(6) Branch Manager	350,000
(7) Disaster Branch Manager as assigned	350,000
(8) Supervisory Loan Officer (Regional)	50,000
(9) Supervisory L/O, Branch Office	50,000
(10) Supervisory L/O, Disaster Branch Office as assigned	50,000

4. To appoint as a processing representative any bank in the disaster area:

(1) District Director.
(2) Branch Manager.
(3) Disaster Branch Manager, as assigned.

(5) To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired.

(1) District Director.

SEC. B. *Administrative authority.* 1. *Establishment of Disaster Field Offices.* (a) To establish field offices upon receipt of advice of the designation of a disaster area and to close disaster field offices when no longer advisable to maintain such offices; and (2) to obligate the Small Business Administration to reimburse the General Services Administration for the rental of temporary office space.

(1) Chief, Regional Administrative Division.
(2) District Director.
(3) Manager, Disaster Branch Office as assigned.

2. *Purchase and Contract Authority.* (a) To contract for local credit bureau services and loss verification services pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in Section 257 (a) and (b) of that Chapter.

(1) Chief, Regional Administrative Division.
(2) Regional Office Service Manager.
(3) District Director.
(4) District Administrative Officer/Administrative Clerk.
(5) Manager, Disaster Branch Office, as assigned.

(b) To purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in Section 257 (a) and (b) of that Chapter.

(1) Chief, Regional Administrative Division.
(2) Regional Office Services Manager.
(3) District Director.
(4) District Administrative Officer/Administrative Clerk.
(5) Manager, Disaster Branch Office, as assigned.

* * * * *

PART VIII—ADMINISTRATIVE

SECTION A.—*Authority to purchase, or contract for equipment, services, and supplies.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. Attorneys in foreclosure cases:

(1) Chief, Regional Administrative Division.
(2) Regional Office Services Manager.
(3) District Director.
(4) District Administrative Officer/Administrative Clerk.
(5) Branch Manager.
(6) Administrative Officer, Branch Office.

2. To purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

(1) Chief, Regional Administrative Division.
(2) Regional Office Services Manager.
(3) District Director.
(4) District Administrative Officer/Administrative Clerk.
(5) Branch Manager.
(6) Administrative Officer, Branch Office.

3. To rent motor vehicles and garage space for the storage of such vehicles when not furnished by this Administration.

(1) Chief, Regional Administrative Division.
(2) Regional Office Services Manager.
(3) District Director.
(4) District Administrative Officer/Administrative Clerk.
(5) Branch Manager.
(6) Administrative Officer, Branch Office.

Effective dates: Parts II and VIII—July 1, 1972; Part I, Section A–3 and sections B–1 and B–3—Sept. 28, 1972.

ROBERT G. SHERWOOD,
Regional Director.

[FR Doc.73-1406 Filed 1-23-73;8:45 a.m.]

TARIFF COMMISSION

[337-32]

CYLINDER BORING MACHINES AND BORING BARS AND COMPONENTS THEREOF

Notice of Investigation and Scope of Investigation

A complaint was filed with the Tariff Commission on May 8, 1972, on behalf of Rottler Boring Bar Co. of Seattle, Wash., alleging unfair methods of competition and unfair acts in the importation and sale of certain cylinder boring machines and boring bars which are embraced within the claims of U.S. Patents Nos. 3,260,136 and 3,273,423. The complainant alleges that the effect or tendency of the unfair methods or acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States in violation of the provisions of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Peterson Machine Tool, Inc., 5425 Antioch Drive, Merrian, KS, has been named as an importer of the subject products. Having conducted, in accordance with § 203.3 of the Commission's Rules of Practice and Procedure (19 CFR 203.3), a preliminary inquiry with respect to the matters alleged in the said complaint, the U.S. Tariff Commission, on January 16, 1973, ordered:

That, for the purposes of section 337 of the Tariff Act of 1930, an investigation is instituted with respect to the alleged violations in the importation and sale in the United States of cylinder boring machines and boring bars made in accordance with the claims of U.S. Patents Nos. 3,260,136 and 3,273,423 and compounds thereof.

The Commission decided not to recommend at this time that the President issue a temporary exclusion order.

A public hearing will be held; the date, time, and place of such hearing will be announced by notice of the Commission at a later date.

Public notice of the receipt of the complaint was published in the FEDERAL REGISTER for June 14, 1973 (37 FR 11811), and the complaint was served upon the parties named in the complaint and upon all known interested parties. The complaint has been available for inspection by interested persons continually since issuance of the notice, at the Office of the Secretary, located in the Tariff Commission Building, and also in the New York City office of the Commission, located in Room 437 of the Customhouse.

Issued: January 18, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-1373 Filed 1-23-73;8:45 am]

[TEA-I-26]

MEN'S AND BOYS' NECKTIES

Discontinuance of Investigation

Notice is hereby given that the U.S. Tariff Commission, on January 18, 1973, discontinued investigation No. TEA-I-26, and canceled the public hearing scheduled in connection therewith. The investigation was instituted on November 3, 1972, upon petition of the Men's Tie Foundation, Inc., an industry trade association, under section 301(b)(1) of the Trade Expansion Act of 1962.

The investigation was discontinued, without prejudice, at the request of the petitioner.

Issued: January 18, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-1462 Filed 1-23-73;8:45 am]

[TEA-W-174]

IMPERIAL COTTON MILLS

Workers' Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Imperial Cotton Mills, Eatonton, Ga., the U.S. Tariff Commission, on January 18, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with carded cotton yarns and woven fabrics of carded cotton yarns (of the types provided for in items 301.01 to 301.39, inclusive, and 320.01 to 320.39, inclusive, of the Tariff Schedules of the United States) produced by Imperial Cotton Mills and/or by the Cannon Mills Co., Kannapolis, N.C., are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before February 5, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: January 18, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-1461 Filed 1-23-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

NEW YORK DEVELOPMENTAL PLAN

Notice of Submission of Plan and Availability for Public Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 677) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health Plan for the State of New York has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the Plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan designates the Department of Labor as the agency responsible for administering the plan throughout the State. The plan will provide for coverage of issues on an industrial ("vertical") basis and will apply to all industries under the purview of the Occupational Safety and Health Act of 1970 except marine cargo handling and shipbuilding and repairing. Establishments with respect to which other Federal agencies exercise statutory authority also will not be covered.

Implementation of the plan is dependent upon enactment of a bill entitled "An Act to amend the labor law, in relation to safety and health standards, and repealing certain provisions relating thereto." This bill will be introduced in the 1973 session of the New York Legislature and passage is anticipated by April 1973. The bill is designed to provide for the establishment of a safety and health program which will meet the requirements of the Act. The proposed legislation is accompanied by an opinion of the counsel to the Industrial Commissioner that the bill meets the requirements of the Act and regulations issued thereunder, and is not violative of the spirit, intent and purpose of the New York State Constitution.

Within the proposed legislation are provisions relating to the authority of the Industrial Commissioner to inspect workplaces including inspections in response to employee complaints with employees having the right to request an informal review of any refusal to issue a citation based on the alleged violation; the right of representatives of the employer and the employees to consult with and accompany inspectors during inspection; and a prohibition against advance notice of such inspections. Employers are given the right of review of such alleged violations before the Board of Standards and Appeals, and employees will be given an opportunity to participate in the review proceedings.

The legislation also includes provisions relating to the granting of variances by the Board of Standards and Appeals and

the review of variations to State standards granted prior to the effective date of the plan. Other provisions include: the prompt restraint of imminent dangers; the requirement of recordkeeping and reporting by employers; the protection of employees exposed to toxic materials or harmful physical agents; the protection of employees against new and unforeseen hazards; and the safeguarding of trade secrets.

Within the meaning of 29 CFR 1902.2(b), the plan is developmental. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902. Also accompanying the plan are appendices containing, among other items, a description of the organization, staffing and funding of the plan and a listing of the State's standards.

2. *Location of Plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations; Office of Federal and State Operation, Occupational Safety and Health Administration, Room 305, Railway Labor Building, 400 First Street, NW., Washington, DC, 20210; Regional Administrator, Occupational Safety and Health Administration, Rm. 3445, 1515 Broadway, New York, NY 10036; and the New York State Department of Labor in Room 579, Building No. 12, State Office Building Campus, Albany, NY 12201 and Room 616B, 80 Centre Street, New York, NY 10013.

3. *Public participation.* Interested persons are hereby given until February 22, 1973, in which to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of Federal and State Operations, Room 305, Railway Labor Building, 400 First Street NW., Washington DC 20010. The comments will be available for public inspection and copying at the above addresses.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof whenever particularized written objections thereto are filed by February 22, 1973. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or an informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C. this 18th day of January 1973.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.73-1400 Filed 1-23-73;8:45 am]

Office of the Secretary

MASSACHUSETTS

Notice of Availability of Extended Unemployment Compensation

Section 501 of Public Law 92-599 permits a State to provide by law that notwithstanding a State "off" indicator ending an extended benefit period because the rate of insured unemployment is less than 120 percent of the average of the rates for the corresponding periods in the 2 preceding years, the extended benefit period shall continue until the third week after the first week for which there is a State "off" indicator determined under paragraph 1(B) of section 203(e) of Public Law 91-373 and extended benefits may be paid to eligible individuals for weeks of unemployment beginning after October 27, 1972, and before July 1, 1973.

The Commonwealth of Massachusetts has so provided. Accordingly Mr. Richard C. Gilliland, Director, Division of Employment Security, Commonwealth of Massachusetts, has determined that there is an extended benefit period in Massachusetts and extended benefits are available to individuals eligible therefor beginning with the week ending November 4, 1972, and continuing through the last week which begins before July 1, 1973, or the third week after the first week in which the rate of insured unemployment in the State falls below 4 percent, whichever occurs first.

Signed at Washington, D.C., this 18th day of January 1973.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.73-1475 Filed 1-23-73;8:45 am]

NEW JERSEY

Notice of Availability of Extended Unemployment Compensation

Section 501 of Public Law 92-599 permits a State to provide by law that notwithstanding a State "off" indicator ending an extended benefit period because the rate of insured unemployment is less than 120 percent of the average of the rates for the corresponding periods in the 2 preceding years, the extended benefit period shall continue until the third week after the first week for which there is a State "off" indicator determined under paragraph 1(B) of section 203(e) of Public Law 91-373 and extended benefits may be paid to eligible individuals for weeks of unemployment beginning after October 27, 1972, and before July 1, 1973.

The State of New Jersey has so provided. Accordingly Mr. Ronald M. Heymann, Commissioner, Department of Labor and Industry, State of New Jersey, has determined that there is an extended benefit period in New Jersey and extended benefits are available to individuals eligible therefor beginning with the week ending Nobember 4, 1972, and continuing through the last week which begins before July 1, 1973, or the third week after the first week in which the rate of insured unemployment in the State falls below 4 percent, whichever occurs first.

Signed at Washington, D.C., this 18th day of January, 1973.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.73-1477 Filed 1-23-73;8:45 am]

RHODE ISLAND

Notice of Availability of Extended Unemployment Compensation

Section 501 of Public Law 92-599 permits a State to provide by law that notwithstanding a State "off" indicator ending an extended benefit period because the rate of insured unemployment is less than 120 percent of the average of the rates for the corresponding periods in the 2 preceding years, the extended benefit period shall continue until the third week after the first week for which there is a State "off" indicator determined under paragraph 1(B) of section 203(e) of Public Law 91-373 and extended benefits may be paid to eligible individuals for weeks of unemployment beginning after October 27, 1972, and before July 1, 1973.

The State of Rhode Island has so provided. Accordingly Mary C. Hackett, Director, Department of Employment Security, State of Rhode Island, has determined that there is an extended benefit period in Rhode Island and extended benefits are available to individuals eligible therefor beginning with the week ending November 4, 1972, and continuing through the last week which begins before July 1, 1973, or the third week after the first week in which the rate of insured unemployment in the State falls below 4 percent, whichever occurs first.

Signed at Washington, D.C., this 18th day of January 1973.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.73-1476 Filed 1-23-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 162]

ASSIGNMENT OF HEARINGS

JANUARY 19, 1973.

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 136181 Sub 1, Marine Stevedoring Corp., and MC 136736, Hampton Roads Transfer Co., Inc., now being assigned hearing February 20, 1973 (3 days), at Richmond, Va., in a hearing room to be later designated.

MC-115162 Sub 238, Poole Truck Line, Inc., is assigned continued hearing March 19, 1973 (1 week), at the Guest House Motor Inn, 951 South 18th Street, Birmingham, AL.

MC-65697 Sub 49, Theatres Service, Co., now being assigned hearing March 26, 1973, (2 days), MC-127418 Sub 5, Trop-Artic Refrigerated Service, Inc., now being assigned hearing March 28, 1973 (3 days) in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

MC-F-11445, Ashworth Transfer, Inc.—purchase—Westates Transportation Co., MC 1872 Sub 78, Ashworth Transfer, Inc., now assigned February 26, 1973, at Phoenix, Ariz., is canceled and reassigned February 26, 1973 (3 days), at Phoenix, Ariz., March 1, 1973 (2 days), at Los Angeles, Calif., and March 5, 1973 (10 days), at San Francisco, Calif., in hearing rooms to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1473 Filed 1-23-73;8:45 am]

[Notice 161]

ASSIGNMENT OF HEARING

JANUARY 18, 1973.

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-29910 Sub 117, Arkansas Best Freight System, Inc., now assigned January 31, 1973, at Columbus, Ohio is canceled and transferred to modified procedure.

MC-117943 Sub 1, Joseph M. Booth, doing business as J. M. Booth Trucking, now assigned January 24, 1973, at Miami, Fla., will be held at the Florida Public Service Commission, 5720 Southwest 17th Street.

MC-1263 Sub 16, McCarty Truck Line, Inc., now assigned January 29, 1973, at Kansas City, Mo., is postponed indefinitely.

I&S 8773, Transit, Vegetable and Animal Oils, Midwest to West, now assigned February 7, 1973, MC 118806 Sub 26, Arnold Bros. Transport, Ltd., now assigned February 12, 1973, MC 105566 Sub 80, Sam Tanksley Trucking, Inc., now assigned February 13, 1973, will be held in Room 813, U.S. Customs House, 610 South Clark Street, Chicago, IL.

AB 62 Marinette, Tomahawk & Western Railroad Co., abandonment between Tomahawk and Kings, Lincoln County, Wis., now assigned February 15, 1973, will be held at the Council Chambers, City Hall, Tomahawk, Wis.

MC-124606 Sub 2, Ford Truck Line, Inc., now assigned February 5, 1973, at Nashville, Tenn., is postponed to February 20, 1973, at Nashville, Tenn., in a hearing room to be later designated.

MC-30844 Sub 413, Kroblin Refrigerated Xpress, Inc., MC-107818 Sub 61, Greenstein Trucking Co., MC-110098 Sub 128, Zero Refrigerated Lines, MC-112822 Sub 236, Bray Lines, Inc., MC-113362 Sub 249, Ellsworth Freight Lines, Inc., MC-116544 Sub 133, Wilson Bros. Truck Line, Inc., MC-117799 Sub 37, Best Way Frozen Express, Inc., MC-117815 Sub 195, Pulley Freight Lines, Inc., MC-136904 Woster-Michigan, Inc., now assigned hearing February 1, 1973, will be held in Room 812, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC-C-7436, Needham Packing Co., Inc., V-Curtis, Inc., now assigned February 5, 1973, will be held in Room 812, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC-110563 Sub 55, Coldway Food Express, Extension-York, Nebr., now assigned February 6, 1973, will be held in Room 812, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC-26825 Sub 12, Andrews Van Lines, Inc., now assigned February 7, 1973, will be held in Room 812, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC-136678, Alabama-Tennessee Express, Inc., now assigned February 26, 1973, at Birmingham, Ala., will be held at the Sheraton Motor Inn, 300 10th Street, North.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1397 Filed 1-23-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 18, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of the application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before February 8, 1973. FSA No. 42606—*Grain and Related Articles to Point Comfort, Tex.* Filed by Southwestern Freight Bureau, Agent, (No. B-377), for interested rail carriers. Rates on grain, grain products and related articles, in packages, in carloads, for export, as described in the application, from various points in southwestern Texas-Louisiana and western trunk line territories, to Port Comfort, Tex.

Grounds for relief—Rate relationship.

Tariffs—Supplement 8 to Missouri Pacific Railroad Co. tariff I.C.C. 518, and supplement 38 to Texas-Louisiana Freight Bureau, Agent, tariff ICC. 1137. Rates are published to become effective on February 20, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1394 Filed 1-23-73;8:45 am]

[Notice 197]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before February 13, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74121. By order entered January 3, 1973, the Motor Carrier Board approved the transfer to Inland Trucking Service Co., Streator, Ill., of that portion of the operating rights set forth in Certificate No. MC-119577, issued November 27, 1964, as corrected January 13, 1965, to Ottawa Cartage Inc., Ottawa, Ill., authorizing the transportation of brick and tile from Lowell, Ottawa, St. Anne, and Streator, Ill., and Crawfordsville and Hobart, Ind., to Covington, Ky., Cincinnati, Ohio, and points in Illinois, Indiana, Iowa, and Wisconsin, and those in that part of Missouri within 50 miles of the Illinois-Missouri State line; from Ottawa, Ill., to points in Ohio (except Cincinnati); from Springfield, Ill., to St. Louis, Mo. and points in St. Louis County, Mo.; and from Brazil, Ind., to Springfield, Ill. Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603, attorney for applicants.

No. MC-FC-74134. By order of January 4, 1973, the Motor Carrier Board approved the transfer to Movers Mart, Inc., Wakefield, Mass., of the operating rights in Certificate No. MC-1845 issued December 8, 1969 to Jopa, Inc., Lexington, Mass., authorizing the transportation of household goods between points in Middlesex County, Mass., on the one hand, and, on the other points in Connecticut, New Hampshire, Vermont, Rhode Island, New York, Maine, New Jersey, Pennsylvania, Maryland, Delaware, and the District of Columbia, and between Boston, Mass., on the one hand, and, on the other, points in Maine, New Jersey, Pennsylvania, Maryland, Delaware, and the District of Columbia. Frank J. Weiner, 15 Court Square, Boston, MA 02108, attorney for applicants.

No. MC-FC-74156. By order entered January 2, 1973, the Motor Carrier Board approved the transfer to Ross T. Smith & Son Embro Ltd., Embro, Ontario, Canada, of the operating rights set forth in Certificate No. MC-135475, issued April 17, 1972, to Ross T. Smith, doing business as Zorra Highland Bus Line, Embro, Ontario, Canada, authorizing the transportation of passengers, in round-trip special and charter operations, in sightseeing and pleasure tours, beginning and ending at ports of entry on the United States-Canada boundary line and extending to points in the United States (including Alaska but excluding Hawaii). S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005, attorney for applicants.

No. MC-FC-74161. By order entered January 4, 1973, the Motor Carrier Board approved the transfer to Bessette Transport Inc., St. Philippe, Laprairie, Quebec, Canada, of the operating rights set forth in Certificates Nos. MC-126603, MC-126603 (Sub-No. 2), and MC-126603 (Sub-No. 4), issued by the Commission September 28, 1965, May 2, 1969, and January 27, 1970, respectively, to R. Menard Transport Ltd., St. Philippe, Laprairie, Quebec, Canada, authorizing the transportation of baled cotton rags, from points in the New York, N.Y. commercial zone, Roselle Park, Passaic, and Jersey City, N.J., Lawrence, Worcester, Boston, and Framingham, Mass., and Baltimore, Md., to the ports of entry on the United States-Canada boundary line located at or near Rouses Point, N.Y., and Morses Line and Highgate Springs, Vt.; lumber, from specified ports of entry on the United States-Canada boundary line in New York, Vermont, and Maine, to points in Maine, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, and Delaware; and lumber from the port of entry on the United States-Canada boundary line located at or near Champlain, N.Y., to points in Virginia, West Virginia, North Carolina, and South Carolina. John J. Brady, Jr., 75 State Street, Albany, N.Y. 12207, attorney for applicants.

No. MC-FC-74171. By order entered January 2, 1973, the Motor Carrier Board approved the transfer to Schultz Express Co., Inc., West New York, N.J., of the operating rights set forth in Certificate No. MC-1377, issued June 14, 1956, to Harry O. Zimmerly, Jr. and Irvin C. Zimmerly, doing business as Zimmerly's Express, North Bergen, N.J., authorizing the transportation of cotton piece goods, corsets, elastic goods, silk, and rayon used in the manufacture of ties, and embroideries, between New York, N.Y., on the one hand, and, on the other, North Bergen, Paterson, Ridgefield Park, Passaic, Newark, Jersey City, Hackensack, Lodi, Garfield, Clifton, Carlstadt, Rutherford, Lyndhurst, Kearny, Harrison, Union City, West New York, and Guttenburg, N.J. George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306, representative for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1396 Filed 1-23-73;8:45 am]

[Notice 6]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 17, 1973.

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 2202 (Sub-No. 427 TA), filed January 8, 1973. Applicant: ROADWAY EXPRESS, INC., Post Office Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Applicant's representative: James W. Conner (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 the Black & Decker Manufacturing Co., at or near Hampstead, Md., as an off-route point, for 180 days. NOTE: Applicant will tack with lead certificate MC-2202 and all subs thereto, and will effect interchange at all points served. Supporting shipper: The Black & Decker Manufacturing Co., Towson, Md. 21204. Send protests to: Franklin D. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 2860 (Sub-No. 121 TA), filed January 2, 1973. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ 08360. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers*, from Parkersburg, W. Va., to points in Illinois, Indiana, Kentucky, Michigan, New Jersey, New York, Ohio, Pennsylvania, and West Virginia, for 180 days. NOTE: Applicant states it does intend to tack with the authority in MC 2860. Supporting shipper: Universal Glass Products Co, c/o National Bottle Corp., One Decker Square, Bala Cynwyd, PA 19004. Send protests to: Richard M. Regan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 5227 (Sub-No. 4 TA), filed January 9, 1973. Applicant: ECONOMY MOVERS, INC., Post Office Box 201, Mead, NE 68041. Applicant's representative: Gailyn L. Larson, Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements, fertilizer applicators, water systems, windmills and towers, and parts related thereto*, from Beatrice, Nebr., to points in Missouri, Iowa, South Dakota, North Dakota, Minnesota, Kansas, Oklahoma, Texas, Arkansas, Louisiana, Indiana, Wisconsin, Illinois, and Ohio, for 180 days. Supporting shipper: John Hubbard, Traffic Manager, Dempster Industries, Inc., Box 848, Beatrice, NE 68310. Send protests to: Max H. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 320 Federal Building and Court House, Lincoln, NE 68508.

No. MC 109677 (Sub-No. 43 TA), filed January 10, 1973. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, NY 12828. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Rensselaer, N.Y., to Chester, Mass., for 150 days. Supporting shipper: Shell Oil Co., Houston, Tex. Send protests to: Joseph M. Barnini, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 New Federal Building, Albany, NY 12207.

No. MC 112963 (Sub-No. 33 TA), filed January 8, 1973. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Applicant's representative: Leonard E. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in bulk, in tank vehicles, from Boston, Mass., to Cranford, Kearney, Newark, and Vernon (Sussex County), N.J., for 180 days. Supporting shipper: Interpolymer Corp., 850 Parker Street, Boston, MA 02120. Send protests to: G. Warren Flynn, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

No. MC 115331 (Sub-No. 338 TA), filed January 8, 1973. Applicant: TRUCK TRANSPORT INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid feed, liquid feed supplements*, in bulk; and (2) *molasses*, in bulk, from plantsite of Cargill, Inc., located in Scott County, Iowa, to points in Illinois and Indiana, and points in Missouri on and north of Interstate Highway 44, in Minnesota on and south of U.S. Highway 12, and in Wisconsin on and south of U.S. Highway 8, and (2) points in Illinois and in Wisconsin on and south of U.S. Highway 8, for 150 days. Supporting shipper: Cargill Molasses Department Commodity Marketing Division, Cargill Building, Minneapolis, Minn. 55402. Send protests to: District Supervisor J. P. Werthmann, Bureau of Operations, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

[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.

No. MC 116280 (Sub-No. 14 TA), filed January 4, 1973. Applicant: W. C. MCQUAIDE, INC., 153 Macridge Avenue, Johnstown, PA 15904. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper forms*, plain or ruled, from Fredericksburg, Va., to Sidman, Pa., and from Sidman, Pa., to points in Pennsylvania, for 180 days. Supporting shipper: Moore Business Forms, Inc., 900 Buffalo Avenue, Niagara Falls, NY 14302. Send protests to: District Supervisor James C. Donaldson, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 123744 (Sub-No. 9 TA), filed January 5, 1973. Applicant: BUTLER TRUCKING COMPANY, Post Office Box 88, Woodland, PA 16881. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products and materials and supplies* used in the installation of refractory products, from Columbiana, Ohio, and Frostburg, Md., to points in Pennsylvania, New York, New Jersey, Maryland, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine, for 180 days. Supporting shipper: Kaiser Aluminum & Chemical Corp., Post Office Box 47, Columbiana, OH 44408. Send protests to: District Supervisor James C. Donaldson, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, PA 15222.

No. MC 125747 (Sub-No. 6 TA), filed January 9, 1973. Applicant: ARNOLD SCHMITZ, INC., 1724 East Pioneer Road, Fond du Lac, WI 54935. Applicant's representative: William J. Nuss, 104 South Main Street, Fond du Lac, WI 54935. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit-based beverage and fruit-based concentrates* for Home Juice Co., from West Allis, Wis., to points in Menominee and Dickinson Counties, Mich., including delivery or pickup of shipper's products at stations between said points and return movement of shipper's products to West Allis, Wis., including delivery or pickup at shipper's stations between said points, for 180 days. NOTE: Applicant states it does intend to tack with the authority in MC 125747. Supporting shipper: Home Juice Co., 15th and Bloomingdale Avenues, Melrose Park, IL 60160 (R. H. Baxter, Vice President). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 125777 (Sub-No. 140 TA), filed January 8, 1973. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Applicant's representative: J. S. Gray (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium Chloride*, in bulk, in dump vehicles, from the plantsite and facilities of Michigan Chemical Corp., at St. Louis, Mich., to South Holland and Dolton, Ill., for 180 days. Supporting shipper: Michigan Chemical Corp., St. Louis, Mich. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Fort Wayne, IN 46802.

No. MC 133276 (Sub-No. 8 TA), filed January 8, 1973. Applicant: BERRY TRANSPORT, INC., 5315 Northwest St. Helens Road, Portland, OR 97210. Applicant's representative: Nick I. Goyak, Six Ten Southwest Alder St., 404 Oregon National Building, Portland, OR. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, and *chemical fertilizers*, in sacks, from Vancouver, Wash., to points in Oregon, for 180 days. Supporting shipper: Pacific Supply Cooperative, 915 Northeast Davis Street, Post Office Box 3588, Portland, OR 97208. 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 134405 (Sub-No. 8 TA), filed December 29, 1972. Applicant: BACON TRANSPORT, COMPANY, Post Office Box 1134, Ardmore, OK 73401. Applicant's representative: O. G. Bacon (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, from Wynnewood, Okla., to points in Texas, for 180 days. Supporting shipper: W. T. Robinson, Manager, Lone Star Producing Co., 301 South Harwood Street, Dallas, TX 75201. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240 Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 134405 (Sub-No. 9 TA), filed January 8, 1973. Applicant: BACON TRANSPORT COMPANY, Post Office Box 1134, Ardmore, OK 73401. Applicant's representative: O. G. Bacon, III (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt*, from Ponca City and Enid, Okla., to points in Texas, for 180 days. Supporting shipper: Riffe Petroleum Co., Homer Riffe, Executive Vice President, Philtower Building, Tulsa, Okla. 74103. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 134599 (Sub-No. 66 TA), filed January 9, 1973. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Office: 265 West 27th South, Mailing: Post Office Box 748, 84110, Salt Lake City, UT 84115. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Playground apparatus, laundry clothesline poles, bar stools, and toys*, from the plantsite of Turco Manufacturing Co., at Du Quoin, Ill., to points in the United States (except Hawaii and Alaska), for 180 days. Supporting shipper: Turco Manufacturing Co., 501 South Line, Du Quoin, IL 62832 (Robert E. Feigenbaum, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 125 South State Street, 5239 Federal Building, Salt Lake City, UT 84111.

No. MC 135032 (Sub-No. 4 TA), filed January 8, 1973. Applicant: HIAWATHA PRODUCE COMPANY, 3850–Fourth Street, Winona, MN 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from points in Minnesota (except Browerville and Alexandria), to points in Illinois (except Chicago), and St. Louis, Mo., and its commercial zone, for 180 days. Supporting shipper: Land O'Lakes, Inc., Post Office Box 116, Minneapolis, MN 55440. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135725 (Sub-No. 8 TA), filed January 8, 1973. Applicant: FRY TRUCKING, INC., 507 West Fifth Street, Wilton Junction, IA 52778. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed*, in packages, from Minneapolis, Minn., to points in Alabama, Georgia, Iowa, Louisiana, Maryland, Mississippi, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: National Vitamin Products Co., 3401 Hiawatha Avenue, Minneapolis, MN 55406. Send protests to: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, IA 50309.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1395 Filed 1-23-73;8:45 am]

[Notice 2]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 19, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

NO. MC-29910 (Deviation No. 20), ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901, filed January 8, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions over a deviation route as follows: From Louisville, Ky., over U.S. Highway 150 to junction U.S. Highway 50, thence over U.S. Highway 50 to St Louis, Mo., and return over the same route, restricted to the transportation of traffic moving from, to, and through all intermediate and off-route points in that part of Georgia an and north of a line beginning at the Alabama-Georgia State line and extending along Georgia Highway 20 to junction U.S. Highway 41, thence along U.S. Highway 41 to Atlanta, Ga., thence along U.S. Highway 29 to Athens, Ga., thence along U.S.. Highway 78 to the Georgia-South Carolina State line, or Wilmington, N.C., Lowland, Tenn., or points in that part of North Carolina on and west of U.S. Highway 1 or points in South Carolina. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Atlanta, Ga., over U.S. Highway 41 to Chattanooga, Tenn. (also from Atlanta over Interstate Highway 75 to Chattanooga, Tenn.), thence over U.S. Highway 41 to Nashville, Tenn., (also from Chattanooga over Interstate Highway 24 to Nashville), thence over U.S. Highway 31-W to Louisville, Ky. (also over Interstate Highway 65 to Louisville), thence over Interstate Highway 65 to Indianapolis, Ind., restricted to the transportation of traffic moving from, to and through Georgia points (a) all intermediate and off-route points in that part of Georgia on and north of a line beginning at the Alabama-Georgia State line and extending along Georgia Highway 20 to junction U.S. Highway 41, thence along U.S. Highway 41 to Atlanta, Ga., thence along U.S. Highway 29 to Athens, Ga., thence along U.S. Highway 78 to the Georgia-South Carolina State line or Wilmington, N.C., Lowland, Tenn., or points in that part of North Carolina on and west of U.S. Highway 1 or points in South Carolina, and (2) from Akron, Ohio, over Ohio Highway 5 to Wooster, Ohio, thence over Ohio Highway 3 to Mount Vernon, Ohio, thence over Ohio Highway 13 to Newark, Ohio, thence over Ohio Highway 16 to Columbus, Ohio, thence over Ohio Highway 440 to junction U.S. Highway 40, thence over U.S. Highway 40 to St. Louis, Mo. (also from Brandt, Ohio, over Ohio Highway 201 to Dayton, Ohio, thence over Ohio Highway 49 to junction U.S. Highway 40, thence over U.S. Highway 40 to St. Louis), thence over U.S. Highway 66 via Carthage, Mo., to Afton, Okla. (also from Carthage over U.S. Highway 71 to junction Interstate Highway 44, thence over Interstate Highway 44 to Joplin, Mo., thence over Missouri Highway 43 to junction U.S. Highway 60, thence over U.S. Highway 60 to Afton), thence over U.S. Highway 66 to Tulsa, Okla., and return over the same routes.

No. MC-71459 (Deviation No. 4), O. N. C. FREIGHT SYSTEMS, 2800 West Bayshore Road, Palo Alto, CA 94303, filed January 11, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Page, Ariz., over U.S. Highway 89 to junction Alternate U.S. Highway 89, thence over Alternate U.S. Highway 89 to Fredonia, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Flagstaff, Ariz., over U.S. Highway 89 to Page, Ariz., and (2) from Bitter Springs, Ariz., over Alternate U.S. Highway 89 to Fredonia, Ariz., and return over the same routes.

No. MC-71459 (Deviation No. 5), O. N. C. FREIGHT SYSTEMS, 2800 West Bayshore Road, Palo Alto, CA 94303, filed January 11, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From San Bernardino, Calif., over Interstate Highway 15 to junction Interstate Highway 40 (U.S. Highway 66) at or near Barstow, Calif., thence over Interstate Highway 40 (U.S. Highway 66) to junction U.S. Highway 89, at or near Ashfork, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Los Angeles Harbor, Calif., over Truck Boulevard to Los Angeles, Calif., thence over U.S. Highway 99 to Indio, Calif., thence over U.S. Highway 60 to Mesa, Ariz., thence over Arizona Highway 87 to junction Arizona Highway 84, thence over Arizona Highway 84 to Tucson, Ariz., and (2) from Wickenburg, Ariz., over U.S. Highway 89 to Flagstaff, Ariz., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1469 Filed 1-23-73;8:45 am]

[Notice 2]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 19, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commissions's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed on or before February 23, 1973.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 637), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed January 5, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express, and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Raleigh, N.C., over new U.S. Highway 64 to junction North Carolina Highway 55, northwest of Apex, N.C., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: from Raleigh, N.C., over old U.S. Highway 64 to junction old U.S. Highway 1, thence over U.S. Highway 1 to Apex,

N.C., thence over North Carolina Highway 55 to junction U.S. Highway 64, and return over the same route.

No. MC-13300 (Deviation No. 28), CAROLINA COACH COMPANY, 1201 South Blount Street, Raleigh, NC 27602, filed January 5, 1973. Carrier's representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express, and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Danville, Va., over U.S. Highway 29 to junction New U.S. Highway 29, thence over New U.S. Highway 29 (east of Reidsville, N.C.) to junction U.S. Highway 29, thence over U.S. Highway 29 to junction North Carolina Highway 150, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Danville, Va., over Virginia Highway 86 to the Virginia-North Carolina State line, thence over North Carolina Highway 86 to junction North Carolina Highway 1300, thence over North Carolina Highway 1300 to Casville, N.C., thence over North Carolina Highway 1155 to junction North Carolina Highway 1153, thence over North Carolina Highway 1153 to junction North Carolina Highway 150, thence over North Carolina Highway 150 to junction U.S. Highway 29, and return over the same route.

No. MC-28462 (Deviation No. 5), DENVER-COLORADO SPRINGS-PUEBLO MOTOR WAY, INC., 2450 Curtis Street, Denver, CO 80205, filed January 8, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express, and newspapers* in the same vehicle with passengers, over a deviation route as follows: Between Billings, Mont., and Hardin, Mont., over Interstate Highway 90, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Billings, Mont., over U.S. Highway 87 to Sheridan, Wyo., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1470 Filed 1-23-73;8:45 am]

[Notice 5]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 19, 1973.

The following publications[1] are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 42963 (Sub-No. 45) (Republication), filed April 21, 1972, published in the FEDERAL REGISTER, issue of May 25, 1972, and republished this issue. Applicant: DANIEL HAMM DRAYAGE COMPANY, a corporation, Second and Tyler Streets, St. Louis, MO 63102. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. A Report and Order of the Commission, Review Board Number 3, dated December 7, 1972, and served January 12, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *liquid printers' ink*, in shipper-supplied cargo tanks, from the facilities of the General Printing Ink Corp., at Overland, Mo., to points in the United States (except Alaska and Hawaii), and of *liquid printers' ink ingredients* in shipper-supplied cargo tanks, in the reverse direction; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134496 (Sub-No. 3) (Republication), filed April 5, 1972, published in the FEDERAL REGISTER issue of May 4, 1972, and republished this issue. Applicant: A & B EXPRESS COMPANY, a corporation, 6314 Dewey Avenue, West New York, NJ 07093. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. An Order of the Commission, Operating Rights Board, dated December 20, 1972, and served January 10, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of wines and liquors (except in bulk), between New York, N.Y., and West New York and Kearny, N.J., on the one hand, and, on the other, points in New York, under a continuing contract with Monsieu Henry Wines, Ltd., of Brooklyn, N.Y., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATIONS FOR FILING OF PETITIONS

No. MC 128375 (Sub-Nos. 1, 2, 4, 8, 10, 11, 20, 24, 25, 51, and 56) (Notice of Filing of Petition for Modification of Permits), filed between July 21, 1966, and October 12, 1970, and published in the FEDERAL REGISTER issues between September 20, 1967 and May 26, 1971. Petitioner: CRETE CARRIER CORPORATION, 1444 Main, Post Office Box 249, Crete, NE 68333. Petitioner's representative: Duane W. Acklie, Post Office Box 80806, Lincoln, NE 68501. NOTE: For Clarification purposes the petitioner seeks removal of the names of its contracting shippers: (1) Allen Products Co., Inc.; (2) Allen Products Co., Inc., of Allentown, Pa.; (3) Allen Products Co. of Nebraska, Inc., of Crete, Nebr.; (4) Allen Products Co., Inc., and its affiliates; and (5) Liggett & Myers, Inc., or Durham, N.C., from the above-numbered permits and in their place the petitioner requests the parent company's name of Liggett & Myers, Inc., of New York, N.Y., be inserted as the contracting shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 129664 (Sub-No. 1) (Notice of Filing of Petition for Removal of Restriction), filed September 18, 1972. Petitioner: COMET MESSENGER AND DELIVERY SERVICE, INC., 277-283 Clinton Avenue, Newark, NJ 07108. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner presently holds a Certificate in No. MC 129664 (Sub-No. 1) issued December 3, 1970, authorizing service as follows: *General commodities* (except classes A and B explosives, household

[1] 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 on the human environment resulting from approval of its application.

goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over irregular routes, (1) between New York, N.Y., on the one hand, and, on the other, Philadelphia, Pa., and points in New Jersey, and those in Orange and Rockland Counties, N.Y.; (2) between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey (except points in Camden, Salem, Cumberland, Burlington, and Atlantic Counties), and points in Orange, Rockland, Nassau, Suffolk, and Westchester Counties, N.Y.; (3) between Newark, N.J., on the one hand, and, on the other, points in New Jersey; and (4) between points in New Jersey, on the one hand, and, on the other, points in Rockland, Nassau, Orange, Westchester, and Suffolk Counties, N.Y., with all of the authority set forth in (1) through (4) above restricted against (a) the transportation of packages or articles weighing in the aggregate more than 25 pounds from one consignor to one consignee on any one day, and (b) the transportation of shipments having a prior or subsequent movement by air. By the instant petition, petitioner seeks removal of part (b) restricting transportation to shipments having a prior or subsequent movement by air. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before February 23, 1973.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 87855 (Sub-No. 3), filed January 4, 1973. Applicant: J. V. MOTOR LINES, INCORPORATED, 69 Thomas Street, East Hartford, CT 06108. Applicant's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Connecticut in connection with applicant's regular route authority between Boston, Mass., and Hartford, Conn. NOTE: This is a matter directly related to MC–F–11767 published in the FEDERAL REGISTER issue of January 17, 1973. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11766. Authority sought for control and merger by THE 4–H TRANSPORTATION CO., INC., a non-carrier, Route 9, Saratoga Road, Fort Edward, NY 12828, of the operating rights and property of (1) FORT EDWARD EXPRESS CO., INC., and (2) NORTHERN MOTOR CARRIERS, INC., also of Fort Edward, N.Y. 12828, and for acquisition by ALBERT R. HILLMAN, 24 Fort Amherst Road, Glens Falls, N.Y. 12801, FRANK H. HILLMAN, Upper Broadway, Ft. Edward, N.Y. 12828, and PAUL F. HILLMAN, Star Route, Glens Falls, N.Y. 12801, of control of such rights and property through the transaction. Applicants' attorney: Harold G. Hernly, 2030 North Adams Street, Arlington, Va. 22201. Operating rights sought to be controlled and merged: (1) *Used motor oil*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, from the United States-Canada boundary line through ports of entry at or near Rouses Point, N.Y., to Newark, N.J.; *petroleum and petroleum products*, in bulk, in tank vehicles, between St. Albans Bay and Burlington, Vt., on the one hand, and, on the other, a defined area of New York; *surface coating, resin compounds, in solution*, in bulk, in tank vehicles, from Fort Edward, N.Y., to Winslow, Maine; *liquid bichromate of soda*, in bulk, in tank vehicles, from Glens Falls, N.Y., to the port of entry at Rouses Point, N.Y., at the United States-Canada boundary line, from Baltimore, Md., to ports of entry on the United States-Canada boundary line at Rouses Point and Champlain, N.Y.; *lignin liquor*, in bulk, in tank vehicles, from Corinth, N.Y., to Baltimore and Leslie, Md., Cambridge, Mass., certain specified points in Pennsylvania, Jackson, Niles, and Black Fork, Ohio, and the ports of entry on the United States-Canada boundary line at Champlain and Rouses Point, N.Y., from Corinth, N.Y., to Ambler, Van Dyke, and Womelsdorf, Pa., Passaic, N.J., and the ports of entry on the United States-Canada boundary line, at Buffalo and Niagara Falls, N.Y., from Corinth, N.Y., to East Bridgewater and Wilmington, Mass.; *lignin liquor*, from Corinth, N.Y.; to points in New York located on the Hudson River, Mohawk River, Erie Canal, Champlain Canal, and the St. Lawrence Seaway, restricted to shipments having a subsequent movement by water, from Corinth, N.Y., to points in Maryland (except Baltimore and Leslie), points in Pennsylvania (except Philadelphia, Plymouth Meeting, Lancaster, Mount Union, and Morrisville), and points in New Jersey; *petroleum products*, in bulk, in tank vehicles, from Plattsburg, N.Y., to Enosburg Falls and Cambridge, Va.; *commodities* which because of size or weight require special equipment and special handling, between points in Clinton, Essex and Franklin Counties, N.Y., on the one hand, and, on the other, points in Franklin and Chittenden Counties, Vt., with restriction; *liquefied petroleum gas*, in bulk, in tank vehicles from Selkirk and Hudson, Falls, N.Y., to points in Connecticut, Massachusetts (except Plymouth, Barnstable and Bristol Counties), New Hampshire, Rhode Island and Vermont (except Essex County), from Selkirk, N.Y., to Auburn and Brewer, Me.; *gasoline and oil*, between Rensselaer, N.Y.; and Pittsfield, Mass., with restrictions;

(2) *Prefabricated barns*, knocked down, in sections, and silos, as a *common carrier* over irregular routes, from South Glens Falls, N.Y., to points in Connecticut, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Maine, and Pennsylvania; *pig iron*, in dump vehicles, from Troy, N.Y., to points in Maine, Vermont, New Hampshire, Connecticut, Massachusetts, and Rhode Island, from Troy, N.Y., to points in Pennsylvania and New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties), with restrictions; *creosoted wooden poles*, from Cranford, N.J., to a defined area in New York; *talc*, in bulk, in tank vehicles, from Johnson, Vt., to Groveton, N.H.; *limestone*, from the town of Dover (Dutchess County), N.Y., to points in Rhode Island, Massachusetts, New Hampshire, Vermont, Maine (except points in Aroostook County), Connecticut, Pennsylvania, New York, and points in New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, N.J.), with restrictions; *cement*, from the plantsite of the Glens Falls, Portland Cement Co., at Glens Falls, N.Y., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island, from Pawtucket, R.I., to points in those parts of Connecticut and Massachusetts on and east of U.S. Highway 5; *cement*, in bulk, in tank vehicles between points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, with restriction, and *ice cream*, in shipper-owned trailers, as a *contract carrier* over irregular routes, from Framingham, Mass., to Latham, N.Y., with restriction. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC–F–11770. Authority sought for purchase by RESORT BUS LINES, INC., 41 Railroad Avenue, Yonkers, NY, of the operating rights and property of CROSS COUNTY COACH CORP., 152 Downing Street, Yonkers, NY, and for acquisition by ARTHUR, CAROL, JUNE, AND GEORGE BERNACCHIA, all of 41 Railroad Avenue, Yonkers, NY, of control of such rights and property through the purchase. Applicants' attorney: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021. Operating rights sought to be transferred: Passengers and their baggage, restricted to traffic originating in the territory indicated below, in charter operations, as a common carrier over irregular routes. From New York, N.Y., and points in New York, New Jersey, Connecticut, and Pennsylvania, and return. Vendee is authorized to operate as a common carrier in New York and Massachusetts. Application has not been

filed for temporary authority under section 210a(b).

No. MC-F-11771. Authority sought for purchase by UNIVERSAL TRANSPORT, INC., Post Office Box 268, Rapid City, SD 57701, of a portion of the operating rights of JOHNSTON'S FUEL LINERS, INC., Post Office Box 100, Newcastle, WY 82701, and for acquisition by C. W. BURNETTE, also of Newcastle, Wyo. 82701, CHARLES LIEN, BRUCE LIEN, both of Box 3124, Rapid City, SD 57701, and ELDON JOHNSTON, Wheatland, Wyo. 82201, of control of such rights through the purchase. Applicants' attorney: John H. Lewis, The 1650 Grant Street Building, Denver, Colo. 80203. Operating rights sought to be transferred: *Cement*, in bulk, in hopper-type vehicles, as a common carrier over irregular routes, from Rapid City, S. Dak., and points within 10 miles thereof, to points in Montana, Wyoming, and Nebraska. Vendee is authorized to operate as a *common carrier* in Kansas, South Dakota, Utah, Wyoming, Colorado, Montana, Nebraska, North Dakota, Minnesota, Arizona, New Mexico, Oklahoma, and Texas. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11772. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: T.I.M.E.-DC, INC., Post Office Box 2550, Lubbock, TX 79408 (MC-35320), with eight (8) Oklahoma carriers, namely, RYAN FREIGHT LINES, INC., Post Office Box 17570, Oklahoma City, OK 73117 (MC-98646), H. A. DAY, doing business as H. A. DAY TRUCK LINE, 801 East Reno, Oklahoma City, OK 73104 (MC-97461), TRIANGLE EXPRESS, INC., 1015 Southwest Second, Oklahoma City, OK 73125 (MC-99775), B AND B LINES, INC., 1002 North Owasso, Tulsa, OK 74106 (MC-56853), THE ROCKET FREIGHT COMPANY, 2921 Dawson Road, Tulsa, OK 74110 (MC-98742), CENTRAL OKLAHOMA FREIGHT LINES, INC., 207 North Cincinnati Avenue, Tulsa, OK 74103 (MC-120371), OKLAHOMA BORDER EXPRESS, INC., 903 South Y Street, Fort Smith, AR 72901, (MC-136420), and GRAVES TRUCK LINE, INC., 2130 South Ohio, Post Office Box 838, Salina, KS 67401 (MC-53965), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between points in Ada, Afton, Allen, Atwood, Bixby, Boley, Bowden, Bowlegs, Bristow, Bushyhead, Cabiness, Calvin, Cardin, Castle, Catale, Catoosa, Chandler, Checotah, Chelsea, Choctaw, Claremore, Commerce, Coyle, Crow, Crowder, Cushing, Dale, Davenport, Depew, Dewar, Dewright, Drumright, Enid, Eufaula, Fairland, Foyil, Gore, Grayson, Guthrie, Harrah, Haskell, Henryetta, Heyburn, Hoffman, Holdenville, Kellyville, Keystone, Konawa, Langston, Leonard, Luther, McAlester, McLoud, Mannford, Meeker, Miami, Morris, Muldrow, Muskogee, Narcissa, Oilton, Okemah, Okmulgee, Picher, Prague, Quapaw, Sallisaw, Seminole, Sequoyah, Shawnee, Stone Bluff, Stroud, Stuart, Taft, Verdigris, Vinita, Warner, Warwick, Wellston, Wewoka, White Oak, Wyandotte, and Yahola, Okla. Attorney: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. T.I.M.E.-DC, INC., is authorized to operate as a common carrier in Texas, Oklahoma, Arkansas, Tennessee, Missouri, and Kansas.

No. MC-F-11773. Authority sought for purchase by CARTWRIGHT VAN LINES, INC., 4411 East 119th Street, Grandview, MO 64030, of the operating rights of NORTH CENTRAL VAN LINES, INC., 2540 North 27th Street, Lincoln, NE 68540, and for acquisition by WILLIAM F., JESSIE MAE, MICHAEL, AND THOMAS CARTWRIGHT, all of 4411 East 119th Street, Grandview, MO 64030, of control of such rights through the purchase. Applicants' attorney: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, in *Practices of Motor Common Carrier of Household Goods*, 17 M.C.C. 467, as a *common carrier* over irregular routes, between points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, between Spearfish, S. Dak., and points within 16 miles of Spearfish, on the one hand, and, on the other, certain specified points in Montana, and Wyoming, between points in Barton, Dade, Cedar, and Greene Counties, Mo., and those in that part of Jasper County, Mo., on and north of U.S. Highway 66, on the one hand, and, on the other, points in Iowa, Kansas, Illinois, and Oklahoma, between Arnold, Nebr., and points within 40 miles of Arnold, on the one hand, and, on the other, points in Iowa, South Dakota, Wyoming, and Colorado; *household goods* as defined by the Commission, and *emigrant movables*, between points in Canadian County, Okla., on the one hand, and, on the other, points in Texas, New Mexico, Missouri, Kansas, and Arkansas; *household goods*, between points in that part of Indiana south of U.S. Highway 40, including Indianapolis, on the one hand, and, on the other, points in Alabama, Florida, Massachusetts, Maryland, New York, North Carolina, New Jersey, Oklahoma, West Virginia, Tennessee, Texas, Virginia, South Carolina, Pennsylvania, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Washington, Oregon, California, Idaho, Montana, Utah, Hawaii, Colorado, Wyoming, Illinois, Indiana, Arizona, Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, Kentucky, Michigan, Missouri, Ohio, Wisconsin, New Jersey, Delaware, Maryland, Virginia, Oklahoma, Arkansas, Texas, Kansas, Tennessee, Nebraska, Iowa, South Dakota, Pennsylvania, West Virginia, Mississippi, North Carolina, Alabama, Georgia, Florida, South Carolina, Louisiana, New Mexico, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11774. Authority sought for control by MERCHANTS TRUCK LINE, INC., McGill Street, Post Office Box 908, New Albany, MS 38652, of MISSISSIPPI FREIGHT LINES, INC., 210 Beatty Street, Jackson, MS 39204, and for acquisition by BEN ALLEN KITCHENS, 366 Cleveland Street, New Albany, MS 38652, PAUL D. KITCHENS, 304 Cleveland Street, New Albany, MS 38652, and JAMES E. ROBERSON, 265 Highland Street, New Albany, MS 38652, of control of MISSISSIPPI FREIGHT LINES, INC., through the acquisition by MERCHANTS TRUCK LINE, INC. Applicants' attorneys: Donald B. Morrison, Post Office Box 22628, Jackson, MS 39205, and Harold D. Miller, Jr., Post Office Box 22567, Jackson, MS 39205. Operating rights sought to be controlled: Under a certificate of registration, in Docket No. MC-121427 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Mississippi; and *general commodities* excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Forest and Union, Miss., between Carthage and Meridian, Miss., between Laurel and Waynesboro, Miss., between Meridian, and Waynesboro, Miss., serving all intermediate points, with restrictions, between Louisville and Houston, Miss., between Ackerman and Eupora, Miss., between Eupora and Columbus, Miss., serving all intermediate points, between Columbus, and Aberdeen, Miss., serving no intermediate points, but serving only the plantsite of Conoco Plastics at Aberdeen, Miss., between Kosciusko and Starkville, Miss., between Louisville and Starkville, Miss., between Meridian, and Columbus, Miss., serving all intermediate points. MERCHANTS TRUCK LINE, INC., is authorized to operate as a *common carrier* in Mississippi and Tennessee. Application has been filed for temporary authority under section 210a(b). NOTE: MC-121427 (Sub-No. 8) is a matter directly related.

No. MC-F-11775. Authority sought for control by J. V. McNICHOLAS TRANSFER COMPANY, 555 West Federal Street, Youngstown, OH 44501, of TOM'S EXPRESS, INC., 422 Cove Road, Weirton, WV 26062, and for acquisition by HENRY J. McNICHOLAS, also of Youngstown, Ohio 44501, of control of TOM'S EXPRESS, INC., through the acquisition by J. V. McNICHOLAS TRANSFER COMPANY. Applicants' attorneys: Donald Donnell, 401 Pennsylvania Avenue, Weirton, WV 26062, and Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Operating rights sought to be controlled: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, new and used furniture, commodities in bulk,

commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between Steubenville, Ohio, on the one hand, and, on the other, points in Brooke, Hancock, and Ohio Counties, W. Va.; *household goods*, between points in Jefferson County, Ohio, on the one hand, and, on the other, points in New York, Pennsylvania, and West Virginia; *iron and steel and manufactured products thereof*, from Portsmouth, Ohio, and points in Jefferson County, Ohio, to certain specified points in New York and Pennsylvania, from Weirton, W. Va., and points in Brooke, Marshall, and Ohio Counties, W. Va., to points in Ohio, and certain specified points in New York and Pennsylvania; *steel, steel products*, materials used in the manufacture of steel, and *building and construction materials*, between points and places in Hancock, Brooke, and Ohio Counties, W. Va., on the one hand, and, on the other, points and places in West Virginia, Michigan, New York, Ohio, and Pennsylvania; *steel, and machinery, materials, supplies and equipment* incidental to or used in the operation and maintenance of steel mills, between points in Brooke and Hancock Counties, W. Va., on the one hand, and, on the other, points in Columbiana and Jefferson Counties, Ohio. J. V. McNICHOLAS TRANSFER COMPANY, is authorized to operate as a *common carrier* in Ohio, Pennsylvania, West Virginia, New York, Kentucky, Connecticut, Delaware, Maryland, Massachusetts, Michigan, New Jersey, Rhode Island, Virginia, Wisconsin, Indiana, Illinois, Maine, New Hampshire, Vermont, Iowa, Missouri, Minnesota, and the District of Columbia, and as a *contract carrier* in Ohio, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, Virginia, West Virginia, Wisconsin, North Carolina, Tennessee, Connecticut, Massachusetts, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc. 73-1468 Filed 1-23-73;8:45 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JANUARY 19, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 53751 (Amendment) filed December 15, 1972, published in the FEDERAL REGISTER issue of January 10, 1973, and republished in part, as amended, this issue. Applicant: C-LINE EXPRESS, 525 Silverado Trail, Napa, Calif. 94558. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1400, San Francisco, Calif. 94104. NOTE: The purpose of this partial republication is to amend paragraph "B" and add paragraph (h) under "C" as shown below. (B) Between all points and places specified in A above, on the one hand, and, on the other hand, all points and places on and within 5 miles laterally of the following highways including all of the Lake Barryessa resort area: Under paragraph "C" add, (h) Castro Valley and all intermediate points and places on and along Interstate Highway 580 between Castro Valley and Springtown, serving Pleasanton and Livermore as off-route points. The rest of the application remains as previously published.

Kansas Docket No. 88929M, Route No. 8432, filed December 29, 1972. Applicant: DONALD L. KERBS and NEAL J. LOVIN, a partnership, doing business as C & R TRUCK LINE, 1012 West North, Salina, KS. Applicant's representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General Commodities:* To, from and between Salina, Kans., and Marysville, Kans., and a 5-mile radius thereof; and the intermediate points of Garfield Center, Linn, Washington, Mapco, Inc. Plant, Kansas, and a 5-mile radius thereof, and the off-route points of Morganville, Clifton, Palmer, Greenleaf, Barnes, Waterville, Blue Rapids, Hanover, Kansas, and a 5-mile radius thereof. From Clay Center, Kans., on present authority and route north on Kansas Highway 15 to Washington, Kans., thence east on U.S. Highway 36 to Marysville, Kans., and return over the same route. As an alternate route for operating convenience; from Clay Center, Kans., on present authority and route north on Kansas Highway K15 to the intersection of Kansas Highway 9, thence east on Kansas Highway 9 to Waterville, Kans., thence east and north on U.S. Highway 77 to Marysville, Kans., and return over the same route. Both intrastate and interstate authority sought. Hearing: February 21, 1973, at the District Court Room, Marshall County Courthouse, Marysville, Kans., at 10 a.m. Requests for procedural information should be addressed to the State Corporation Commission, Fourth Floor, State Office Building, Topeka, Kans. 66612, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1467 Filed 1-23-73;8:45 am]

RUSSELL TRANSFER, INC.

Notice of Filing of Petition

JANUARY 19, 1973.

No. MC-C-7956 (Notice of Filing of Petition for Declaratory Order), filed November 20, 1972.

Petitioner: Russell Transfer, Inc., 444 Glenmore Drive, Salem, VA 24153. Petitioner's representative: Robert G. Perry, 1701 Charleston National Plaza, Charleston, W. Va. 25301. Petitioner holds certificate No. MC-105709 (Sub-No. 1), authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses, (a) from Lynchburg, Va., to points in Virginia within 75 miles of Lynchburg, and (b) from Roanoke, Va., to Lynchburg, Va. By the instant petition, petitioner seeks a declaratory order to the effect that the above certificate authorizes the transportation of such commodities as shoes, paint, patent medicines, empty containers, plastic pipe or tubing, paperboard or fiberboard, sheets or rolls, which commodities are, assertedly, dealt in by wholesale or retail chain grocery and food business houses. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before February 23, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1471 Filed 1-23-73;8:45 am]

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■

MILK IN THE SOUTHERN MICHIGAN AND UPSTATE MICHIGAN MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1040, 1043]

[Docket Nos. AO 225-A25, AO-247-A18]

MILK IN THE SOUTHERN MICHIGAN AND UPSTATE MICHIGAN MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handing of milk in the Southern Michigan and Upstate Michigan marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Lansing, Mich., on May 4-5, 1972, pursuant to notice thereof issued on April 4, 1972 (37 FR 7338).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on December 5, 1972 (37 FR 26318), 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:

1. Under issue No. 2:

(a) A new paragraph is added at the end of the findings under subheading "(a) Merger of orders."

2. Under issue No. 3:

(a) Clerical errors are corrected in the first and seventh paragraphs under subheading "(a) Revisions of Class I classification."

(b) Revisions are made in paragraphs one, three, six, 12, and 18 under subheading "(c) Class III milk."

(c) Four new paragraphs are added under subheading "(g) Format of order provisions."

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

1. Diversion limitations under the Southern Michigan and Upstate Michigan orders.

2. Whether the marketing areas of Southern Michigan and Upstate Michigan orders should be included under one order.

(a) Merger of orders.

(b) Interstate commerce.

3. If an order is issued for one milk marketing area in the manner proposed, what its provisions should be.

(a) Application of the provisions of the Southern Michigan order to the combined marketing areas.

(b) Revision of provisions with respect to:

(i) Classification of skim milk and butterfat;

(ii) Class prices and location adjustments;

(iii) Distribution of proceeds to producers; and

(iv) Administrative provisions.

The decision deals with all the issues listed above except Issue No. 1, which was considered previously in a decision issued by the Assistant Secretary on September 15, 1972 (37 FR 19639).

FINDINGS AND CONCLUSIONS

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

2. *Whether the marketing areas of Southern Michigan and Upstate Michigan orders should be included under one order.*—(a) *Merger of orders.* Order No. 43, regulating the handling of milk in the Upstate Michigan marketing area, and Order No. 40, regulating the handling of milk in the Southern Michigan marketing area, should be merged into a single regulation. The surviving order would be Order No. 40.

Addition of the Upstate Michigan marketing area to the Southern Michigan marketing area was proposed by a cooperative association operating in the two markets. Proponent testified that Southern Michigan handlers have extended their supply and sales routes in the Upstate Michigan marketing area to the point that a separate market for Upstate Michigan producers no longer can be distinguished. Merger of the orders was not opposed.

Southern Michigan is the larger of the two marketing areas proposed for merger. The Southern Michigan marketing area includes most of the Lower Peninsula of Michigan, except one tier of southern counties, two western counties adjoining such tier, and the marketing area of Upstate Michigan consisting of 13 northwestern counties.

In 1955, when the Upstate Michigan order was promulgated, there were 486 producers supplying 24 plants operated by handlers regulated under the order. In January 1970 only the milk of 22 producers was pooled under the order and only three distributing plants were regulated. At the time of the hearing only 19 producers were left on the market, compared to 8,247 producers on the Southern Michigan market. Most of the producers who were on the Upstate Michigan market shifted to Southern Michigan order pool plants. Also, the fluid milk sales business within the marketing area has been shifting to Southern Michigan handlers.

Most of the sales in the Upstate marketing area consequently are now made by handlers regulated by the Southern Michigan order. Transfers to Upstate Michigan pool plants and route sales in the Upstate Michigan marketing area by Southern Michigan handlers have increased from approximately 20 million pounds in 1965 to 65 million pounds in 1971. In comparison, the total producer receipts by Upstate Michigan handlers during 1971 amounted to only 9 million pounds.

Since the fluid milk sales business within the Upstate marketing area is held primarily by Southern Michigan handlers, such territory is now an integral part of the larger Southern Michigan marketing area. Therefore such territory should be added to the Southern Michigan marketing area and the Upstate Michigan order shoud be revoked.

The marketing area set forth herein is identical with that contained in the separate orders. It includes all the territory within the Michigan counties of Alcona, Allegan (Dorr, Gunplain, Hopkins, Leighton, Martin, Otsego, Watson, and Wayland Townships only), Alpena, Antrim, Arenac, Barry, Bay, Benzie, Calhoun, Charlevoix, Cheboygan, Clare, Clinton, Crawford, Eaton, Emmett, Genesee, Gladwin, Grand Traverse, Gratiot, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kalkaska, Kent, Lake, Lapeer, Leelanau, Livingston, Macomb, Manistee, Mason, Mecosta, Midland, Missaukee, Monroe (Ash and Berlin Townships only), Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Roscommon, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Wastenaw, Wayne, and Wexford.

All currently regulated handlers of the separate orders will continue to be regulated under the merged order. Producers under the separate orders will continue to supply such handlers. To accomplish the merger effectively and most equitably, the assets in the custody of the market administrator in the administrative, marketing service, and producer-settlement funds under the two orders should be combined. Any liabilities of such funds under the individual orders should be paid from the new funds so created and obligations due to the funds under the separate orders should be paid to the combined funds under the merged order. To distribute such funds under one order to producers and handlers under the order would unduly burden the producers and handlers now regulated by the other order. To distribute the funds under both orders and again accumulate the necessary reserve would entail unnecessary administrative detail at considerable cost with no advantage to either handlers or producers.

The administrative assessment rate limit of 2 cents per hundredweight under the Southern Michigan order should be continued under the order for the merged marketing areas. The Upstate Michigan order provides an administrative assessment rate limit of 5 cents per hundredweight but the actual rate of assessment being applied under each of the orders is 2 cents per hundredweight. Accordingly, a maximum rate of 2 cents should provide sufficient funds to cover the market administrator's costs of administering the order for the merged marketing areas.

(b) *Interstate commerce.* The handling of milk in the proposed merged marketing area is in the current of, and directly burdens, obstructs, or affects interstate commerce in milk or milk products.

Bulk milk from farms located in Indiana, Ohio, and Wisconsin, as well as Michigan, is received and priced at pool plants regulated by the Southern Michigan order. Bulk milk from supply plants located in Wisconsin is tranferred to pool plants located in the proposed marketing area.

Manufactured milk products made from producer milk likewise are involved in interstate commerce. Cottage cheese and yogurt from a Michigan regulated plant are sold in the adjoining State of Ohio. Yogurt is sold in the consolidated marketing area by handlers regulated under the Indiana and Ohio Valley orders.

Michigan handlers competing for sales of milk and milk products throughout the combined Southern Michigan and Upstate Michigan marketing areas are also in competition for such sales from handlers located outside the State.

3. *Order provisions for the combined marketing area*—(a) *Application of the provisions of the Southern Michigan order to the combined area.* The order provisions adopted herein continue the Southern Michigan order provisions, subject to proposed amendments considered herein. In those instances in which specific provisions of the order adopted herein are substantially different from the present Southern Michigan order, the justification therefor is set forth in the findings of this decision.

The provisions of the order for the combined marketing area will be applicable to the same categories of persons and milk plants to which provisions of the separate orders now apply. The pooling requirements for distributing plants under the Southern Michigan and Upstate Michigan orders currently specify that 50 percent of the milk receipts at the plant be disposed of on routes. Adoption of the Southern Michigan order provisions for the Upstate Michigan portion of the combined marketing area will not change the categories of persons and milk plants in such area to be regulated. Adoption of the Southern Michigan provisions relative to pooling supply plants, and "balancing" plants operated by cooperatives, likewise will not effect any change in mode of regulation for any present handler in the Upstate Michigan marketing area. Neither of such types of plants are regulated currently under that order.

(b) *Revision of provisions with respect to*—(i) *Classification of skim milk and butterfat.* Cooperative associations proposed that certain product composition standards be incorporated in the classification provisions. In addition, they proposed reclassification of skim milk and butterfat in certain specific uses, particularly cream products, eggnog, and yogurt.

The present classification provisions of the Southern Michigan order should be revised as follows:

(*a*) *Revision of Class I classification.* With certain exceptions noted hereinafter, Class I milk should continue to include skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

In addition, as proposed by the cooperatives, this classification should include skim milk and butterfat in milkshake mixes containing less than 20 percent total solids, in sterilized fluid milk products, and in any milk product not in Class II or Class III if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Milkshake and ice milk mixes containing less than 20 percent total solids should be included in Class I. Such mixes containing a greater percentage of solids should be Class III products.

Milkshake and ice milk mixes for commercial use are basically similar in composition and purpose to what might be considered as traditional frozen desserts, such as ice cream. It is possible, however, that a beverage product very similar in form and composition to chocolate milk could be marketed under the label of a milkshake mix for the purpose of having a lower classification apply to the product. Since such a product actually would have the same general form and purpose as other fluid milk products now classified as Class I under the order, it should be included in the Class I classification. It is necessary, though, to provide some means of distinguishing between such a product and the general category of milkshake mixes that are being sold in market competition with frozen desserts. For this purpose, the total solids content of the product should be used. A standard of 20 percent or more total solids should encompass those milkshake and ice milk mixes intended for use as a type of frozen dessert. Mixes with less solids are quite similar in total solids to chocolate milk and other flavored fluid milk products and should be in Class I.

Returns to producers for milk disposed of in the form of fluid milk products should be the same whether such products are sterilized or unsterilized. Such products in either form are being marketed for the same beverage use. Sterilization does not change the form or use of such products. They are generally intended for use in place of their unsterilized counterparts and are thus competing for the same market uses. Classifying all such products in Class I will assure that the returns from producer milk used in sterilized fluid milk products will contribute on the same basis as returns from producer milk used in unsterilized fluid milk products toward inducing an adequate supply of milk for beverage use.

With the removal of any exception to the Class I classification of milk because of sterilization, specific reference must be made in the "fluid milk product" definition to the exclusion of certain products that otherwise could be construed to fall within such definition. Such products are evaporated or condensed milk or skim milk, formulas in hermetically sealed glass or all-metal containers that are especially prepared for infant feeding or dietary use, and products (such as flavored drinks in "pop" bottles) containing by weight less than 6.5 percent nonfat milk solids. These products, being sold in sterilized form, are now excluded from the Class I classification and such exclusion should be continued, notwithstanding the fact that they are sold to the public in fluid form. Evaporated milk and condensed milk sold for home use are intended primarily for cooking purposes. They are not consumed normally as a beverage. Infant and dietary formulas, which are being sold in hermetically sealed glass or all-metal containers, are specialized food products prepared for a limited use. Such formulas do not compete generally with other milk beverages consumed by the general public. Similarly, fluid products containing only a minimal amount of nonfat milk solids are not considered as being in the competitive sphere of the traditional milk beverages.

Cooperatives proposed that, in addition to naming certain milk products and excluding others, a fluid milk product be defined in terms of moisture and milk solids content of the product. As proposed by producers, a "fluid milk product" would be any product containing at least 6.5 percent nonfat milk solids and 80 percent water but less than 9 percent butterfat and 20 percent total solids. They contended that the proposed fluid milk product definition would accommodate the classification of new products or variations of the listed products when they are introduced on the market. Any product meeting the specified composition limits for a fluid milk product would be a fluid milk product regardless of the name under which the product might be marketed.

Handlers generally took the position that the fluid milk product definition should continue to list by name those products intended to be included in Class I. They believed that this procedure would result in less confusion within the industry concerning the application of this definition.

The primary concern with any fluid milk product definition is that it clearly define the products or types of products that are intended to be included in the definition. The fluid milk product definition adopted herein, which incorporates both the listing of specified products and the use of composition percentages, should meet this requirement.

For clarity the fluid milk product definition should continue to list the generic

names of those products commonly sold for consumption as beverages. The products listed in the adopted definition encompass most of the forms in which milk for fluid uses is sold. Any one referring to this fluid milk product definition may easily ascertain in the case of most milk products whether or not a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate, however, the classification of new milk products developed for fluid consumption. With certain limited exceptions noted, the fluid milk product definition is intended to include all milk products that are distributed for use as beverages. Although a new milk beverage introduced on the market might not be encompassed within the list of named products, it should be treated as a fluid milk product, nevertheless, if its composition is similar to that of the listed products. This will be the result of the standards of product composition for fluid milk products herein adopted.

As indicated, the adopted composition standards would embrace any product not specified as a Class II or Class III product that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids. These standards are chosen so as to conform as closely as possible to the range of water, solids, and butterfat content of those products specifically listed in the fluid milk product definition that are commonly sold for use as beverages.

The 9-percent-butterfat standard coincides with the butterfat percentage adopted herein to delineate the mixtures of cream and milk or skim milk to be included in Class II. The total solids and water percentages represent a reasonable measure of the fluidity of those products that normally are consumed as beverages. The 6.5 percent nonfat milk solids standard is used to exclude from the fluid milk product definition those products that contain some milk solids but are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles. In the case of the nonfat milk solids standard, it is intended that nonfat milk solids include such milk solids as lactose and the nonfat solids in dried whey.

(b) *Class II milk.* Class II milk should include skim milk and butterfat disposed of in the form of eggnog, yogurt, or a "fluid cream product", i.e., cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat. Any product containing 6 percent or more nonmilk fat (or oil) that resembles any of these products likewise should be in this class. Also, eggnog, yogurt, and fluid cream products that are in inventory at the end of the month in packaged form should be in Class II.

Included also in this classification should be skim milk and butterfat used to produce cottage cheese, lowfat cottage cheese and dry curd cottage cheese. Skim milk disposed of in any Class II product that is modified by the addition of nonfat milk solids should be Class II milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Under the current Southern Michigan order Class II milk includes only the skim milk and butterfat used to produce, or added to, cottage cheese or cottage cheese curd.

Proposals by cooperatives of products to be included in Class II differed little from that adopted herein. One cooperative proposed that skim milk and butterfat used to produce eggnog be classified as Class I milk. Another cooperative would classify skim milk and butterfat used to produce sour cream as Class III milk.

Handlers and producers agreed that fluid cream products should be removed from the fluid milk product definition and be classified as Class II. An association of milk dealers asked that cottage cheese and cream be classified as Class II. One handler suggested there be no third class of milk products. He suggested that fluid milk products remain in Class I and cream and cottage cheese be classified along with manufactured milk products in a single surplus class.

In support of their proposed Class II use categories, the several cooperatives contended that there are significant differences in the competitive position of, and demand for, milk so used compared to other uses of milk. They stated that handlers demand quality milk on a regular basis for the proposed Class II products and that alternative supplies of milk for such uses cannot be obtained for less than the Class II prices they propose for producer milk. Moreover, they claimed that products in such Class II uses should bear, along with fluid milk products, part of the cost necessary to attract an adequate market supply.

Proponent cooperatives pointed out that the present Class I classification of cream and cream mixtures has placed these products in a poor competitive position in the marketplace relative to nondairy substitutes. By shifting these products to a lower-priced class, proponents hope it will allow the industry to maintain its present small share of the cream and dessert topping market and provide it a chance to perhaps recapture some of the market that it has lost.

Class II milk should include eggnog. Currently, eggnog is a Class III product under the Southern Michigan order. One cooperative asked that it be classified as Class I. Another cooperative would classify eggnog as Class II. Handlers operating distributing plants in the Detroit area requested that eggnog be classified as Class III milk.

The sales of eggnog are limited primarily to the months of November and December. During 1971 eggnog sales in the Southern Michigan market amounted to 3,271,000 pounds. Such sales for the year amounted to less than 0.1 of 1 percent of the 3.85 billion pounds of producer milk in the market. One handler estimated that 35 to 40 percent of the eggnog products sold in the market are substitute products. In view of the limited sales of eggnog during the year total returns to producers would not be significantly enhanced if eggnog were classified as Class I milk. Furthermore, a Class I classification for eggnog would place it at a competitive disadvantage in the market relative to substitute products. Eggnog, however, should not be priced as a Class III product because a main ingredient is cream. Cream will be a Class II product. For these reasons the intermediate Class II classification of this order is appropriate for skim milk and cream in such uses.

Milk used in yogurt should be classified as Class II milk. Yogurt is a soft, nonfluid, "spoonable" product. It is not a beverage as are other products defined herein as fluid milk products.

By being suspended from the fluid milk product definition yogurt is currently a Class III use under the Southern Michigan order to price it competitively with those neighboring Federal order markets that classify yogurt in an intermediate use class.

Processors generally use regular supplies of inspected milk to produce yogurt. Although yogurt can be made from cream and nonfat dry milk, processors prefer high quality milk. Since yogurt has a relatively limited shelf life, it is made on a continuing basis, thus requiring a regular supply of milk at all times. It is not a residual use as surplus. These conditions warrant that producer milk in yogurt be priced at a level above the price for milk disposed of through the traditional residual uses for surplus milk.

Sour cream or a cultured mixture of cream and milk or skim milk containing 9 percent or more butterfat should be a Class II product. The Southern Michigan order currently classifies sour cream as a Class III product.

One cooperative asked that sour cream be classified as a Class II product while another cooperative and several handlers requested that its classification as Class III be continued.

Sour cream should be placed in the same class as other cream products. Half-and-half and light cream are used by consumers principally in coffee. Aerated cream and whipping cream are used as dessert toppings. Sour cream and cultured mixtures, with or without the addition of other ingredients, are used as dips or in food preparation. Providing the same classification for such products as for other cream products will result in uniform pricing to handlers for producer milk used in all such "specialty" cream products.

Ending inventory of fluid cream products, eggnog, and yogurt when held in packaged form, should be classified as Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventory of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the

same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the following month, would be allocated in the following month directly to the handler's Class II utilization.

The order now provides that any "filled" product containing 6 percent or more nonmilk fat (or oil) shall be Class III milk. With the inclusion of fluid cream products, eggnog, and yogurt as Class II products, it is appropriate that any such filled products that resemble the proposed Class II products made with milk fat likewise be included in this class. The substitution of nonmilk fat for milk fat in a product merely changes the composition of the product and not its use. For competitive reasons, a comparable classification of products made with milk fat and their filled counterparts is necessary.

Handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products should be permitted to have such other source milk allocated directly to their Class II uses. Under the plan adopted herein, such other source milk to which direct allocation could apply would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products.

The major use of other source milk in making these Class II products is the addition of nonfat dry milk to cream products, mainly half-and-half, and to skim milk being used for the manufacture of cottage cheese. If producer supplies are short, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed skim milk may be similarly used. Handlers choosing to use such other source milk in this way should be permitted to have such milk allocated directly to their Class II utilization rather than allocated first to any Class III utilization they may have.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use.

Nonfat dry milk has certain advantages for handlers that producer milk cannot provide. It can be added easily to milk or milk products to increase their nonfat milk solids content. Also, its storability permits handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, the higher cost of nonfat dry milk relative to producer milk would tend to limit its use to only those situations where the nonfat dry milk has a distinct processing advantage for handlers.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle in his plant any receipts of fluid other source milk with his receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty a handler would have in demonstrating that he actually used fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk in essentially the same manner as now provided by the order.

In this connection, it should be noted that under the revised classification plan the order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classification. Such receipts would be allocated to the extent possible first to the handler's Class III utilization and then to his Class II utilization. This would be the case even if a Class II classification were requested by the handler.

Handlers may add nonfat milk solids to several of the proposed Class II products, such as half-and-half and light cream. The method of accounting for modified fluid milk products should apply in like manner to these modified Class II products. Currently these cream products are fluid milk products, and in accounting for these products the order provides that each shall be classified as Class I in the amount of the weight of an equal volume of an unmodified product of the same nature and butterfat content. The remaining skim milk equivalent of the nonfat solids in such product is classified in the lowest class. Accordingly, under the revised classification, if eggnog, yogurt, or any fluid cream product is modified by the addition of nonfat milk solids, such product would be classified as Class II in the amount of the weight of an equal volume of an unmodified product of the same nature and butterfat content. The remaining skim milk equivalent of the nonfat milk solids in such product would be classified in Class III.

The order provides that nonfat milk solids used to fortify fluid milk products and in producing or adding to cottage cheese or cottage cheese curd shall be accounted for on the basis of the actual weight of the solids. Such accounting procedure would be changed under the order provisions provided herein to conform with the procedure used under Federal orders generally and, therefore, facilitates appropriate accounting for milk products moved among orders. The method adopted would account for all nonfat milk solids on a skim milk equivalent basis. The volume of the unmodified product that the added solids replaces would be classified in the same class as the modified product and the remaining skim milk equivalent volume of the added solids would be Class III.

(c) *Class III milk.* Class III milk should include skim milk and butterfat used to produce cheese (other than cottage cheese, lowfat cottage cheese and dry curd cottage cheese), butter, plastic cream, frozen cream, anhydrous milkfat, any milk product in powdered form, milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, custards, puddings, pancake mixes, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, evaporated or condensed milk or skim milk in plain or sweetened form that is in a consumer-type package, any concentrated milk product in bulk, fluid form, and any product containing 6 percent or more nonmilk fat (other than a Class II product). Any other product not otherwise included among Class I and Class II products also should be included in Class III.

Other Class III uses should include fluid milk products and bulk fluid cream products in inventory at the end of the month, and that portion of modified (by the addition of nonfat milk solids) fluid milk products and Class II products not included in Class I or Class II. Also, a Class III classification should apply to bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. In addition, Class III should include any fluid milk product or product listed in the Class II classification that is disposed of for animal feed, or is dumped if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition. Also, shrinkage within certain limits should be classified as Class III milk.

The items included in Class III are those currently in Class III with certain exceptions. One item, packaged fluid milk products in ending inventory, is added to the current Class III classification. Milkshake mixes containing less than 20 percent total solids and certain sterilized products packaged in hermetically sealed containers, however, would be placed in Class I, and sour cream would be moved to Class II.

Cooperatives requested that milkshake mixes containing less than 20 percent total solids and packaged fluid milk products in ending inventory be classified as Class I milk. Handlers proposed that such products be classified as Class III milk.

One cooperative requested that sour cream be classified as Class II milk. Another cooperative and several handlers asked that the order continue to classify sour cream as Class III milk.

The rationale for placing certain of the current Class III products in either

Class I or Class II is contained in the discussion of products to be classified as Class I or Class II milk. The following discussion concerns the classification of ending inventory and the classification of shrinkage.

A producer's primary concern with the classification of ending inventory is its effect on his returns. A handler is concerned with such classification as it affects his pool obligation and recordkeeping. Either a Class I classification for packaged fluid milk products in ending inventory, or a Class III classification and a reclassification as a Class I product when such product is disposed of on routes, results over the long run in essentially the same pool obligation for handlers and the same returns to producers. Classifying packaged fluid milk products in ending inventory as Class III will tend to facilitate the recordkeeping of handlers without disadvantage to producers.

Ending inventory classified as Class III milk should be reclassified in a higher class if so used during the following month. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price, as applicable, for the current month would apply to any reclassified inventory. This is the same reclassification procedure that now applies under the order to inventories of fluid milk products in bulk form.

Fluid cream products in bulk form that are on hand at the end of the month likewise should be classified in Class III. As in the case of bulk milk, the final use of cream being held in bulk form is not necessarily apparent from that form. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify any closing inventory of bulk cream in Class III and then apply a reclassification charge should the cream, as beginning inventory the following month, be allocated to a higher class.

For the first month that the revised classification plan is effective, certain transitional provisions relating to inventory should apply. Such provisions are necessary to assure that all handlers under the order will be subject to the same pricing for milk used in packaged fluid milk products and fluid cream products whether such products enter into the month's accounting as beginning inventory or are made from current receipts of producer milk.

Under the new plan, beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. Since this would not be the case for the first month under the new amendments, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products and bulk fluid cream products. A reclassification charge should apply if a higher classification results.

A pool credit should apply on certain milk products in ending inventory in the first month that the revised classification plan is effective. Beginning inventories of fluid milk products and, for the first month, all fluid cream products would be allocated to the extent possible to Class III. This allocation assumes that such inventories were priced at the lowest class price in the preceding month. Since inventories of packaged fluid milk products and packaged fluid cream products (half-and-half, light cream and whipping cream) under the Southern Michigan order will have been priced at the preceding month's Class I price, former Southern Michigan handlers should receive a credit on such packaged inventories equal to the difference between the preceding month's Class I price and the Class III price. Former Upstate Michigan handlers should receive a credit on all ending inventory of fluid milk products and cream at the difference between the preceding month's Class II and Class III price under such order since their inventories will have been priced at the preceding month's Class II price. If a higher classification results through the allocation procedures, the appropriate reclassification charge would apply.

The current order provides that skim milk dumped shall be a Class III use subject to prior notification to and inspection by the market administrator. Butterfat in dumped products likewise should be classified as Class III milk. Currently, butterfat in dumped products may be classified as Class III milk only if there is a sufficient amount of allowable Class III shrinkage remaining to permit such classification. Otherwise, such butterfat is known as "excess shrinkage" and is classified as Class I milk. In normal plant operations there is likely to be some cases where butterfat in milk products cannot be sold or salvaged. Route returns that may be nonsalable because of dating regulations often may not be reprocessed economically into other products. Additives such as flavoring or nondiary ingredients may make reprocessing impractical. Also, in manufacturing operations, spoilage may occur, or culturing processes may break down, rendering the product nonsalable for human consumption. Such products that are dumped result in a loss to the handler. In these circumstances, butterfat dumped should be classified as Class III in order that such butterfat may be accounted for as a specific use rather than as shrinkage, an unspecified use.

The classification of shrinkage within certain limits as Class III milk as provided in the Southern Michigan order should be continued in the merged order, except that the principle of division of shrinkage between receiving and processing functions with respect to milk moved from farms to plants in tank trucks operated by a cooperative association handler should apply also in the case of milk that is transferred or diverted.

The order now provides a 2-percent maximum shrinkage allowance in Class III in the case of receipts of producer milk, milk from other order plants, and milk from unregulated supply plants. With respect to producer milk the order recognizes that shrinkage normally experienced varies with the type of handling. More loss is usually experienced in plant processing than in merely receiving milk for delivery to another handler.

With respect to delivery of milk by a cooperative association handler from farms to plants in tank trucks, a Class III shrinkage allowance of 0.5 percent of such milk is provided. Any excess shrinkage over 0.5 percent is classified as Class I milk. The Class III shrinkage allowance to the processing plant receiving the milk from the cooperative is 1.5 percent. This maintains a total of 2-percent Class III shrinkage allowance for such milk from producers in the receiving and processing operations.

In the case of milk diverted from a pool plant to another plant, a shrinkage allowance in Class III of 0.5 percent should be provided the diverting handler unless the operator of the plant to which the milk is diverted purchases such milk on the basis of weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples. In the latter case no shrinkage allowance would apply for the diverting handler. This is the same procedure applicable to cooperative bulk tank deliveries to pool plants. Similar handling is involved.

This kind of division of shrinkage allowance should be provided with respect to receipts in bulk from other pool plants and receipts in bulk from other order plants, and unregulated supply plants. One and one-half percent shrinkage allowance at the plant where such milk is processed and 0.5 percent allowance at the shipping plant will maintain a total of 2 percent Class III shrinkage allowance at processing plants with respect to receipts of milk from pool sources, other order milk, and unregulated supply plant milk.

(*d*) *Classification of milk transferred or diverted.* Certain changes should be made in the provisions that prescribe the classification of fluid milk products that are transferred or diverted from a pool plant to another plant. Several of the changes become necessary with the classification of fluid cream products as Class II. Other changes are appropriate for clarity in the classification of milk.

The order presently provides a Class III classification for cream in bulk transferred from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant if the handler claims Class III utilization and such nonpool plant is located in Pennsylvania, New Jersey, New York, or New England. Bulk cream transferred to nonpool plants in other States is classified as Class I milk unless certain conditions are met.

Under the adopted classification plan, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid

cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its subsequent use since it is feasible to use the skim milk and butterfat in bulk cream in any of the three classes of end use. Appropriately, the classification of bulk cream should be based on its end use irrespective of the location of the plant to which it is transferred to effect its classification on the basis of use. Arrangements for verifying the utilization at most distant plants can be made easily through the facilities of the various market administrators' offices. Thus, it is necessary that fluid cream products transferred in bulk form from a pool plant to another plant be classified in a manner similar to that now used in classifying transfers of bulk fluid milk products.

The order now prescribes a procedure for classifying transfers of bulk fluid milk products from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant. To determine such classification, the nonpool plant's utilization must be assigned to its receipts of milk from each source. Some amplification of this procedure is appropriate to set forth clearly the priority for assigning the different types of plant use to the different sources of fluid milk products and bulk fluid cream products received at the nonpool plant.

Under the adopted assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk. Thus, any Class I route disposition of the nonpool plant in the marketing area of a Federal order, and any transfers of packaged fluid milk products from the nonpool plant to plants fully regulated under such order, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under such order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned next. Such use would be assigned, first, to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under that order and, secondly, to any such remaining receipts from plants fully regulated under other orders.

Additional unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class. Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

Certain changes should be made in the order concerning the classification of products transferred from a pool plant to a producer-handler. Under the revised classification plan, bulk fluid cream products transferred from a pool plant to a producer-handler should be assigned to the extent possible to the latter's Class III use, and then Class II use. If the producer-handler does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

As in the case of all other fluid milk products, such transfers of cream are now classified as Class I milk. Such classification tends to assure that producers do not carry for producers-handlers the burden of maintaining reserve supplies for the Class I sales of producers-handlers. With the removal of cream from the Class I classification, as adopted herein, a mandatory Class I classification of cream transfers to producers-handlers would not be necessary for this purpose.

The order should provide that fluid milk products transferred from a pool plant to a producer-handler under another order be classified as Class I milk. This classification now applies under the order with respect to such transfers made on an intramarket basis.

The producers-handlers, in their capacity as handlers, have been exempt from the pricing and pooling provisions of the order. In consideration of this exemption, the order requires a Class I classification of all fluid milk products that are transferred from a pool plant to a producer-handler. Inasmuch as the producer-handler exemption under each order is predicated on essentially the same basis, a Class I classification of milk transferred from a pool plant regulated under one order to a producer-handler as defined under another order would be in keeping with the general basis for producer-handler exemption.

Since the advent of farm bulk tanks, the diversion of producer milk from pool plants to manufacturing plants has been a common method of handling milk not needed for the fluid market. The classification of diversions to unregulated nonpool plants is discussed hereinbefore. The classification of diversions to other order plants and to pool plants of other handlers should be specified in the order. Such diversions are provided for in the producer milk definition of the order. Currently the transfer provisions of the order are silent on the classification to be accorded such diversions.

Provision should be made for the diversion of milk to other order plants for Class II or Class III use. Such provisions will foster the efficient handling of surplus milk in the market by permitting the disposal of such milk directly from farms to manufacturing plants in other markets, rather than having such intermarket movements limited to the more expensive method of transferring milk from one plant to another. With the safeguards adopted herein, returns to producers in the market to which the milk is diverted will not be affected by the processing of this surplus milk in their market since the diverted milk will continue to be pooled in the market from which diverted.

The transfer provisions of the order should provide for the same classification for a diversion from a pool plant to another pool plant that is applicable to a transfer between such plants.

(ii) *Class prices and location adjustments*—(a) *Class I price and location adjustments.* The Class I price under the combined order should be that currently provided under the Southern Michigan order, the basic formula price for the second preceding month plus a differential of $1.60. The location adjustment provisions under the Southern Michigan order should be continued under the merged order also.

Several cooperative associations proposed that the amount of the Class I differential under the Southern Michigan order be continued in the merged order. Two cooperatives, while not objecting to the proposed Class I differential, proposed to increase the effective Class I price at certain pool plants by eliminating the minus location adjustment applicable at such plants. They proposed that the location adjustment zones of −3, −5, −7, and that portion of the −9-cent zone south of the northern edge of Oceana and Newago Counties be changed to a zero zone. One of the latter cooperatives asked that the direct delivery differential zones of plus 4 and plus 8 cents remain in effect. The other cooperative expressed no position on the direct delivery differentials. Its members do not ship milk to plants located in the area where such differentials apply.

The proposal by the two cooperatives would remove the minus location adjustments effective at plants in the southern half of the Lower Peninsula of Michigan. In support of their proposal witnesses for the associations stated that all producers should receive the same price for milk delivered to plants throughout such territory. They contended that the minus location adjustments amounted to a subsidy for handlers in the central and western part of the Lower Peninsula. They stated that distributing plants in the western and central part of the State have routes extending into the Detroit area and Detroit handlers have routes extending over much of the State. For this reason they believed the same Class I price should be applied at the plants of all such handlers and requested that minus location adjustments not apply in the southern part of the Lower Peninsula of Michigan.

Handlers with plants located in or near the Detroit metropolitan area proposed that the direct-delivery differential zones of plus 4 cents and plus 8 cents be eliminated. They also proposed an increase in the Class I price differential to avoid any loss in returns to producers by elimination of the direct-delivery price zones. In addition, at the hearing, they suggested the adoption of hauling credits from pool funds for producer milk shipped in excess of 60 miles to pool distributing plants. In their brief, however, they contended that this would not be a necessary part of eliminating direct delivery zones. Handler witnesses cited the overlap of sales competition between Detroit handlers and handlers in the balance of the market as the reason for their proposal. They contend that the present price adjustments result in too wide a disparity in the cost of raw milk for competing handlers. In their view the present minus location adjustment structure under the Southern Michigan order should provide the necessary incentive to move milk to the fluid outlets in the market.

Cooperatives favoring retention of the plus 8-cent and plus 4-cent direct-delivery differentials pointed out the need for such incentive to attract milk from the production areas to the primary consumption area. They stated that 50 percent of the population of the Lower Peninsula of Michigan resides in the Detroit metropolitan area. Approximately 65 percent resides in the plus 8-cent, plus 4-cent, and zero zones. Total deliveries of milk to plants in such zones in 1971 amounts to 61 percent of the total milk marketed under the Southern Michigan order. Seventy-seven percent of the total Class I sales by Southern Michigan handlers in March 1972 was made by plants located in the Detroit area. Sixty percent of the total Class I sales is made by plants located in the plus 8-cent and plus 4-cent zones and 17 percent by handlers with plants in the zero zone.

The location adjustment rate structure under the present Southern Michigan order was last revised effective May 1968, based upon evidence adduced at a hearing held in May 1967. That revision adopted a "direct-delivery" differential of 8 cents for milk delivered to plants in Wayne County and in the townships of Royal Oak and Southfield in Oakland County, and of 4 cents for milk delivered to plants located in the remaining townships of Oakland County.

Direct-delivery differentials were first established in the Southern Michigan order in August 1965. At that time, a rate of 4 cents per hundredweight was applied to all milk received from farms at plants located in the major portion of Wayne County and in two townships of Oakland County. The general basis for the direct-delivery differential was discussed in the decision on amendments to the Southern Michigan order issued on June 15, 1965, which was based on the record of a 1964 hearing.

Institution of a plus 8-cent direct-delivery differential zone in May 1968 was based upon testimony that an additional 15 to 18 million pounds of milk were needed monthly at plants in the Detroit metropolitan area.

The direct-delivery differentials are applicable at plant locations. It is common practice in the market for each producer to pay for shipping his milk from his farm to a plant. Hauling charges tend to increase as the distance from farm to plant increases. Accordingly, in the interest of maximizing his net return from the sale of his milk, each producer has an incentive to minimize his hauling payment by shipping to a plant close to his farm unless he is reimbursed for the added cost of shipping to a more distant plant.

The direct-delivery differentials are employed to effect reimbursement to producers for the added cost of shipping milk to plants located in the densely populated Metropolitan Detroit area compared to plants located closer to the outlying production areas wherein Detroit handlers compete with such other plant operators for producer milk supplies.

The use of such direct-delivery payment provisions tends to make producers indifferent as to whether they ship their milk to plants in and near Detroit or to outlying plants in the market, since their net return at the farm is the same in each case. Without the provisions, producers would tend to prefer to ship milk only to the plants located nearest their farms.

The record does not demonstrate that the direct-delivery differentials have resulted in handlers in the Detroit area attracting milk supplies in excess of their needs. Consequently, there is no reason to assume that any lesser price differential as between plants in the Detroit area and plants in the outlying parts of the market would provide sufficient price incentive to attract the needed milk supply to Detroit plants.

It is the combination of both the plus direct-delivery differentials applicable at plants in the Detroit metropolitan area and the minus location adjustments applicable at plants throughout the production area that induces the needed milk deliveries to plants in the Detroit metropolitan area. The elimination of either the plus or minus price adjustments would reduce the incentive to move milk to the city plants.

Both proposals would limit severely the importance of order pricing as the means of compensating for the cost of moving milk from farms to the primary consumption area. At the outset, a burden would fall on those producers supplying city plants. Consequently, such producers would tend to seek other plant outlets nearer their farms to avoid incurring the higher hauling cost to ship their milk to the city. This would tend to threaten the supply of milk available to distributing plants in and near Detroit.

The situation is avoided by the use of the present location adjustment structure in the market, since it is formulated to reflect the added transportation cost in moving milk from farms to Detroit area plants as compared to plants located nearer producers' farms.

In view of the above considerations, it is concluded that the proposals to change the location pricing structure in the market should be denied.

The location adjustments under the Southern Michigan order applicable at locations within the Upstate Michigan marketing area should be continued, as proposed by the cooperatives. Such adjustments provide for a location adjustment of minus 12 cents at any plant located in Manistee, Wexford, Crawford, Grand Traverse, or Kalkaska Counties. A minus 15-cent location adjustment is applicable at plants located in the remaining counties of the Upstate marketing area.

Such location adjustments under the Southern Michigan order would effect about the same Class I price differentials as now apply at plants under the Upstate Michigan order. Under the Upstate Michigan order, the plants at Cadillac, Charlevoix, and Cheboygan have a Class I differential of $1.49. The location adjustments adopted herein would result in a Class I price differential of $1.48 for the plant at Cadillac and a differential of $1.45 at the other two plants.

(b) *Class II price.* The Class II price under the merged order should be the Class III price for the month plus 15 cents. The Class III price is the lower of the basic formula price or a butter-nonfat dry milk formula price.

The Class II price adopted herein is the price currently effective under the Southern Michigan order. It also will provide the same level of Class II pricing currently effective under the Upstate Michigan order.

One cooperative proposed that the Class II price be the basic formula price plus 20 cents. Three other cooperatives proposed that the Class II price be the Class III price plus 20 cents.

Still another cooperative supplying handlers in Southern Michigan (Detroit) and the Ohio Valley (Toledo) with milk for cottage cheese asked that the Class II price not be changed.

Several handlers requested that no change be made in the Class II price effective under the Southern Michigan order. They were concerned that their principal competitors in neighboring orders would have a comparatively lower price if any of the other proposed methods of Class II pricing were adopted. These handlers noted that the Class II price for the Ohio Valley and Eastern Ohio-Western Pennsylvania order currently is the basic formula price plus 10 cents per hundredweight whereas one of the proposals would add 20 cents to the basic formula price.

It would not be appropriate at this time to establish a Class II price based upon the basic formula price plus 20 cents or the Class III price plus 20 cents in view of the lower price in neighboring markets wherein Southern Michigan handlers compete strongly for sales of Class II products. The Ohio Valley and Eastern Ohio-Western Pennsylvania orders classify as Class II most of the milk products that would be Class II under this order and price milk in such uses at the basic formula price plus 10 cents. During 1971 the Class II price of milk containing 3.5 percent butterfat averaged $4.91 in the Ohio Valley and Eastern Ohio-Western Pennsylvania orders compared to $4.92 in the Southern Michigan order.

In view of the competitive situation between Southern Michigan handlers and handlers in the Ohio Valley and Eastern Ohio-Western Pennsylvania markets, the current Class II pricing in the Southern Michigan order should be continued at this time.

(iii) *Distribution of proceeds to producers.* Marketwide pooling provisions now included in both the Southern Michigan and Upstate Michigan orders should be retained in the consolidated order. No proposals were made to change the method of pooling returns to producers under the combined order.

The base-excess plan of payments to producers under the Southern Michigan order should be continued under the merged order, subject to the changes considered below. A majority of the producers on the Upstate Michigan market belong to a cooperative that is now paying such producers on the basis of the Southern Michigan base-excess plan. Only nine producers on the Upstate market are not being paid in accordance with such base-excess plan. The record does not reveal any problem for such producers by being brought under such payment plan.

Base plan revision. Several provisions dealing with the application of bases should be modified.

Presently two or more persons with bases may combine those bases upon the formation of a bona fide partnership. The order, however, does not define a bona fide partnership. Cooperatives proposed that this provision be modified to provide that a bona fide partnership agreement must define the financial invested interest, financial and management responsibilities, division of income and expenses, and basis for sharing of profits or losses.

Such delineation of the terms of the partnership agreement should aid the market administrator in determining that the partnership agreement applies to a joint milk production business in which each partner shares in the profits (or losses), as opposed to a sales or rental arrangement under the guise of a partnership in an attempt to effect a transfer of base.

The proposed modification is appropriate since it provides guidelines for the market administrator in determining which partnerships are to be considered bona fide. Such change, likewise, will provide guidance to producers in establishing partnerships.

A base may be held jointly and be divided among the partners as specified in writing to the market administrator. Cooperatives proposed that this provision be modified to provide that a base may be held jointly through the formation of a bona fide partnership, provided such base is established by the partnership under the rules applicable to an individual producer establishing a base. This modification should be adopted since it clarifies the intent of the provision and does not represent any substantive change.

An additional modification would permit a producer to retain his base without loss for 12 months if quarantined from the market by reason of pesticide or herbicide residue in his milk supply as evidenced by Federal or State authority. This provision, proposed by cooperatives, would allow a producer to retain his base for 12 months if quarantined from the market for more than 45 days. The order now provides that a producer who does not deliver milk to any handler for 45 consecutive days may retain his base without loss for 12 months only if he suffers the complete loss of his barn, or a loss of 50 percent or more of his milk herd from brucellosis or bovine tuberculosis.

A producer who suffers the loss of either a barn or part of his herd has the capability of marketing some milk. A producer whose milk contains pesticide or herbicide residue, however, is unable to market any of his milk production. It is appropriate that producers with milk containing pesticide or herbicide residue, as well as producers suffering partial or total loss of milk production, be permitted to retain their base.

One cooperative proposed that the base rules be revised to allow a producer to hold his base for the following year if he shipped at least 80 percent of his base during the base-setting period, instead of 90 percent as now required by the order. The reason given for the proposed revision was that if a producer were required to ship only 80 percent of his base, he would not need to add cows to the herd during the fall months.

No specific reason was given on the record why a producer's production of milk from a herd of a given size should unavoidably decline more than 10 percent from one base-setting period to the next other than by causes covered by provisions discussed above. When such production decrease exceeds 10 percent, it seems likely that such decrease would be the result of a decrease in the size of the herd from one base-setting period to the next since average daily deliveries per producer are increasing in the market. In those instances in which the size of the herd has been reduced, it is appropriate to reduce the base of such producer accordingly. The current provision, which allows a producer's production to fall to 90 percent of the previous base without any reduction in the base earned, should be sufficient for normal variations in production resulting from causes other than herd reduction. For this reason, the proposal to permit a producer to retain his base if he ships only 80 percent of his base during the base-setting period is denied.

(iv) *Administrative provisions.*—(a) *Reload point.* A provision defining a reload point should be added to the order to distinguish between a reload point (pump-over station) and a plant.

A reload point should be defined as a location at which milk moved from a farm in a tank truck is transferred directly to another tank truck and commingled with other milk before entering a plant. If reload operation is on the premises of a plant, it should be considered a part of the plant operation.

For the last several years handlers have been bringing milk directly from the farm into the city of Detroit by using reload points. Since the current order is silent as to a specific defined distinction between a reload point and a supply plant, handlers proposed adoption of a plant definition to distinguish between a reload point and a plant for the purpose of making clear that milk is priced only at plants. They also proposed that the order should make clear that a distribution point should not be considered a plant.

Since the order now has definitions for a supply plant, a distributing plant, and route disposition the desired clarification in order language can appropriately be accommodated by adding a reload point definition and modifying the supply plant and route disposition definitions.

A distribution point is a separate facility used primarily for the transfer to vehicles of packaged fluid milk products moved there from a distributing plant. Operators of distributing plants often operate one or more distribution points in delivering fluid milk products to wholesale and retail accounts situated a substantial distance from their plants. The distribution facility is part of the delivery system and, accordingly, the route disposition definition should be modified to specifically include delivery through any distribution facility as route disposition.

Cooperatives proposed that milk moved to market through a reload point that is not a part of a supply plant operation be priced at the plant to which it is moved. If such milk is reloaded at a supply plant with storage facilities, the milk should be considered to be received at that point for pricing purposes.

Milk hauled directly from the farm to a pool plant is priced at the location of

the plant where received. Since a reloading point is only a means of consolidating farm bulk tank shipments in tank trucks with greater capacity, the price applied to such milk should continue to be that applicable at the plant where received.

If the reload point, however, has storage facilities, milk from farm bulk tank trucks may be either reloaded into an over-the-road tanker or unloaded into storage facilities for later transshipment. In such instance there is no precise means of determining the ultimate destination of each producer's milk. If the milk pumped into the storage tanks at the reload point is transferred to more than one plant, there is no means of identifying which producer's milk is transshipped to each of the other plants. In addition, there is no practicable means of verifying which producer's milk is reloaded into an over-the-road tanker and which producer's milk is unloaded into a storage tank. For these reasons all milk received at a plant having storage facilities should be priced at the location of such plant.

(b) *Other source milk definition.* Because of the revised classification plan, certain changes in the present other source milk definition are necessary. This definition would continue to serve, however, the present function of implementing the identification of various categories of receipts at a regulated plant.

At present, fluid milk products from any source other than producers, a cooperative acting as a handler for farm bulk tank milk, and pool plants are considered as other source milk. Under the revised classification plan, however, cream no longer would be defined as a fluid milk product. To facilitate the application of other provisions of the order, it is desirable, nevertheless, that fluid cream products, when in bulk form, continue to be treated in the same manner as fluid milk products for the purpose of applying the other source milk definition.

Other source milk should include any receipts in packaged form of fluid cream products, eggnog or yogurt (or any filled product resembling such products). These are Class II products under the revised classification plan.

Although no handler obligation would apply under the provisions adopted herein to these receipts of packaged Class II products, it is desirable for accounting purposes that such receipts be defined as other source milk. This accounting procedure will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants. As provided herein, such receipts of other source milk would be allocated directly to the handler's Class II utilization, rather than being allocated to the extent possible to the handler's lowest utilization as is provided in some cases for other types of other source milk.

The order now provides that manufactured products from any source that are reprocessed, or converted into, another product in the plant shall be considered as other source milk. For accounting purposes under the order, such manufactured products should include dry curd cottage cheese received at a pool plant to which cream is added before distribution to consumers. When used to produce cottage cheese or lowfat cottage cheese, the receipts of dry curd would be allocated under the adopted provisions directly to the handler's Class II utilization. No handler obligation would apply under the order to such receipt.

Other source milk should include any disappearance of manufactured milk products for which the handler fails to establish a disposition. Although the order does not specify such disappearance as other source milk, it is reasonable that each handler be required to account fully for all milk and milk products received or processed at his plant. Otherwise, a handler with inadequate records may have an opportunity to gain a competitive advantage over his competitors who properly account for all milk. Specifying any unexplained disappearance of manufactured milk products as other source milk will contribute to a uniform application of the regulatory plan to all handlers.

(c) *Substitution of regulatory agency for health authority.* "Regulatory agency" should be substituted for "health authority" wherever it appears in those sections of the Southern Michigan order defining "producer", "distributing plant", and "supply plant". Frequently the regulatory agency approving milk for fluid consumption is not termed a health authority. Accordingly, use of "regulatory agency" provides a more useful description of such agencies having jurisdiction in this field.

(d) *Obligations relative to other source milk.* The merged order should not provide for an additional charge to a handler for other source milk received from nonpool plants if it is classified as Class I milk by this order and a Class I price already has been assessed under any Federal order.

Under the present provisions of the Southern Michigan and Upstate Michigan orders a double charge on such Class I other source milk might result under the following circumstances. If producer milk is transferred in bulk from a pool plant regulated under any Federal milk order to an unregulated nonpool plant and is used as Class I milk, the pool plant operator is charged for this transfer of milk at the Class I price.

If, during the same month, an equivalent amount of bulk milk from this unregulated nonpool plant is transferred to a pool plant under either the Southern Michigan or Upstate Michigan order and is allocated to such pool plant's Class I utilization, the operator of the pool plant would be charged the difference between the Class I price and the uniform price for such receipt of other source Class I milk.

There is a tendency for plants to specialize in the processing of certain products, or in the packaging of products in particular types of containers. It is not uncommon for milk to be transferred from a pool plant to an unregulated nonpool plant for special processing and the finished products to be moved back into the regulated market. When milk is initially priced at the Class I price the market price structure is in no way undermined if such milk, or its equivalent, is disposed of for Class I use by the nonpool plant in a regulated market. Accordingly, the merged order should provide that the operator of a pool plant will have no obligation to the pool on such other source Class I milk.

This can be achieved by revising the allocation provisions and the procedure for computing the pool obligation of a pool plant operator as follows: 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 other obligation would apply to the milk so allocated to Class I. In the case of fluid milk products received in bulk form from an unregulated supply plant, the provisions 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 has been priced as Class I milk under some other Federal order.

In this same connection, the provisions prescribing the obligation of a partially regulated distributing plant should be changed. When such plant's obligation is computed as though it were a pool plant, proper recognition must be given to any transfers to the plant from a regulated plant to the extent that the milk already has been priced as Class I milk under some Federal order. Also, in computing a partially regulated distributing plant's pool obligation on route sales in a Federal order marketing area, recognition should be given to any receipt of milk at such plant from another unregulated plant if an equivalent amount of milk received at the latter plant already has been priced as Class I milk under an order.

The Southern Michigan and Upstate Michigan orders now impose a handler assessment for administering the orders on all other source Class I milk except that received in fluid form from another 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 any additional charge on such milk, the merged order should not provide for any assessment on such milk for administrative expenses. Such milk would be subject to

the comparable charge as applied under the order that initially priced the milk.

The merged order should provide that the Class I price for other source milk, when adjusted for location of the shipping plant, shall not be less than the Class III price.

A pool plant operator's obligation under the Southern Michigan and Upstate Michigan orders to the producer-settlement fund includes a payment on fluid milk products received from unregulated supply plants and allocated to Class I. The handler's obligation to the pool is determined by charging him at the Class I price and crediting him at the uniform price. The prices used are those applicable at the location of the unregulated supply plant, except that an adjustment to the uniform price is limited so that it may not be less than the Class III price.

No such limitation on the Class I price is provided in the two orders at present on other source milk allocated to Class I when adjusted for the location of the shipping plant. The merged order should limit the Class I price adjustment in the same way that the uniform price just mentioned is limited.

Providing that any adjusted Class I price applicable to other source milk be not less than the Class III price is appropriate under this order. Otherwise, under certain conditions a handler could receive payment from the producer-settlement fund on such milk. Such payment could result when the location differential for the distant plant is greater than the difference between the Class I and Class III prices. In this circumstance, producers under the order, in effect, would be providing the handler with a credit that reduces his cost for the distant milk below its value for manufacturing use at the point of purchase.

From the standpoint of marketing efficiency, the handler should not be provided an incentive, which would be at the expense of local producers, to import such distant milk into the local market. It is unreasonable to expect that such a handler credit should apply on the other source milk.

A similar situation now exists with respect to the obligation of the operator of a partially regulated distributing plant or an other order plant. In certain cases, the handler's obligation includes a payment to the producer-settlement fund at the difference between the Class I price applicable at his plant and either the uniform price or the Class III price. For the same reasons, the order should provide, in computing the obligation of such a handler also, that the Class I price, as adjusted for location, shall not be less than the Class III price.

(e) *Exclusion of nonreporting handler from uniform price computation.* A provision of the Southern Michigan order dealing with the computation of the pool value of milk containing 3.5 percent butterfat should be revised to provide for excluding the value of milk of any handler who has not filed his report of ceipts and utilization or who has not paid for the previous month his obligation to the producer-settlement fund.

The current order provides that the market administrator shall compute the value of the pool by combining into one total the pool obligation of each handler. In the event that a handler has not filed his report the market administrator must decide whether to exclude such handler's value of milk in making the required computation or to delay the computation until a report is received. Obviously, the Market Administrator cannot delay the computation of the pool value indefinitely since he is required to announce at a prescribed time the prices to be paid producers for milk delivered during the preceding month. Accordingly, the order should be amended to provide that the value of milk of a handler who has not filed his report of receipt and utilization shall be excluded in computing the value of the pool.

The report of a handler who has not paid his obligation to the producer-settlement fund for the preceding month should be excluded in computing the value of the pool. If a handler has not paid his obligation to such fund during the previous month, the reserve funds of the producer-settlement fund might be depleted to an extent that the market administrator cannot make full payment to those handlers due to receive money from the producer-settlement fund. In such event the order provides for the market administrator to uniformly reduce his payments to handlers.

Since handlers who have a higher utilization than the average for the market would be required to make the full payment to producers, any reduction in payments to handlers due a credit from the producer-settlement fund should be kept at a minimum so that they, too, are able to make the full payment to their producers.

These provisions excluding from the computation of the pool value the reports of handlers who have not complied with certain reporting or payment provisions of the order are identical with those in most other Federal milk orders. They are appropriate for the merged order for the reasons previously stated.

A witness for Detroit handlers suggested that a later deadline for submitting reports of receipts and utilization be established in the order. They indicated that some handlers are experiencing a delay in obtaining some of the information they need to complete their reports. Specific reference was made to sales records from distant distribution points and information from plants to which producer milk is diverted.

Cooperative associations opposed any later date for filing handler reports of receipts and utilization if it would result in setting a later date for payments to producers.

The dates fixed under the order for the announcement of the uniform prices, payments to and from the producer-settlement fund, and payments to producers are all coordinated in sequence from the date fixed for filing reports of receipts and utilization. Consequently, to provide a later date for filing reports, it also would be necessary to set a corresponding later date for payments to producers.

Cooperatives opposed to a later reporting date, are also handlers under the order and file reports of receipts and utilization for the pool plants they operate. Presumably the situation faced by such cooperatives in compiling their reports in the time period now provided is similar to that of other handlers regulated under the order.

In this circumstance it is concluded that the record does not demonstrate sufficient basis for providing more time for filing reports of receipts and utilization at the expense of further delay in the date by which producers receive payment for their deliveries of milk.

Cooperatives were concerned that excluding handlers who had not paid their previous month's obligation to the producer-settlement fund might cause wide fluctuations from month to month in the level of uniform prices. As an alternative they suggested that the interest or overdue accounts be increased from 6 percent to 18 percent per year in order to encourage prompt payments to the producer-settlement fund. The current 6 percent rate, however, should be continued. The current record does not demonstrate that handlers are delinquent in making their payments to the producer-settlement fund.

(f) *Equivalent price.* The merged order should contain an equivalent price provision providing that if a price or pricing constituent needed by the market administrator in administering the order is not available, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

The Southern Michigan and Upstate Michigan orders presently use both "price quotation" and "price" to describe the formula pricing constituents and prices that must be available to the market administrator monthly in order for him to determine the class prices and the butterfat differentials. These formula pricing constituents and prices are (1) the Chicago butter price, (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, and (3) the price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota.

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

(g) *Format of order provisions.* The format of the merged order is designed to provide a more logical positioning of provisions. The positioning of provisions within the merged order is the same as that recently incorporated in several Federal milk orders and proposed for a number of others. Such positioning is designed to achieve a uniform location of order provisions among all orders and to improve the arrangement of provisions therein.

The regrouping of provisions together with the redesignation of section numbers of the order is intended to result in a more compact order and a more precise grouping of related order provisions. In addition to redesignation of section numbers (and codified subunits), some changes have been made in section titles, introductory paragraphs and section content. In making these modifications, which conform with the format proposed generally for the various orders, no change is intended either in the intent or application of any provisions so affected.

The revised order attached hereto provides for a producer butterfat differential only. The handler and producer butterfat differential provisions under the Southern Michigan order have both used a differential factor of 0.113 times the Chicago butter price. The handler butterfat differential has been rounded to the nearest 0.1 of a cent and the producer butterfat differential has been rounded to the nearest 0.5 of a cent. Such different rounding procedures, however, have not resulted in any meaningful difference between the resultant butterfat differentials. Accordingly, a single butterfat differential is all that is needed. Moreover, with the use of a single producer butterfat differential the pooling of differential butterfat value is not necessary.

To effect simplification of order provisions and pooling procedures a single producer butterfat differential factor of 0.113 times the Chicago butter price, rounded to the nearest 0.1 cent is adopted and no provision is made for pooling the value of differential butterfat. This does not effect any change under the Southern Michigan order with respect to handler's cost of butterfat in producer milk.

The order attached to the recommended decision provided an individual plant basis of reporting and allocation. The Southern Michigan order, however, has provided a handler basis of reporting and allocation. Certain multiple plant handlers have followed a practice of reporting on a handler basis. The matter of type of reporting and allocation was not explored on the record. Accordingly, the handler basis of reporting and allocation is retained in the revised Southern Michigan order.

(h) *Advance announcement of prices for Class II and Class III milk.* A handler proposed that order prices for Class II and Class III milk be announced at the beginning of the month rather than at the end of the month during which the prices apply. The submission of the proposal, however, was contingent upon the adoption of a similar proposal in a recommended decision on classification in 33 markets and a seven-market final decision. Since the recommended decision on the 33 markets denies an earlier announcement for Class II and Class III prices, no further consideration is given herein to such proposal.

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.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

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

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

(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;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) 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, 2 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1040.85 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 Southern Michigan 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.

Determination of Producer Approval and Representative Period

October 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southern Michigan 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, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on January 17, 1973.

Richard E. Lyng,
Assistant Secretary.

Order[1] amending the order, regulating the handling of milk in the Southern Michigan marketing area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and

[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.

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 agreements and to the orders regulating the handling of milk in the Southern Michigan and Upstate Michigan marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Southern Michigan order as hereby amended, and all of the terms and conditions thereof, which combine the Southern Michigan and Upstate Michigan marketing areas, 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;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) 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, 2 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1040.85.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the orders regulating the handling of milk in the Southern Michigan and Upstate Michigan marketing areas shall be combined into one order—the Southern Michigan order. Part 1043 is superseded thereby, and such vacated part designation shall be reserved for future assignment. The handling of milk in the combined marketing area shall be in conformity to and in compliance with the terms and conditions of the Southern Michigan order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the Southern Michigan order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on December 5, 1972, and published in the FEDERAL REGISTER on December 9, 1972 (37 FR 26318; FR Doc. 72-21212), 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:

1. In the index, centerheading "Uniform Price" is changed to "Uniform Prices" and centerheading "Base Excess Plan Provisions" is changed to "Base Excess Plan."

2. Sections 1040.9(a), 1040.30(a), 1040.41(a), 1040.43(a), 1040.44, 1040.52, 1040.60(g), and 1040.76(b)(2) are revised.

3. Clerical errors are corrected in §§ 1040.15(a) and 1040.16.

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

GENERAL PROVISIONS

GENERAL PROVISIONS

§ 1040.1 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

§ 1040.2 Southern Michigan marketing area.

"Southern Michigan marketing area," hereinafter referred to as the "marketing area," means all territory geographically within the places listed below, together with all piers, docks, and wharves connected therewith, and all craft moored thereat, and all territory wholly or partly therein occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments.

MICHIGAN COUNTIES

Alcona.
Allegan (Dorr, Leighton, Hopkins, Wayland, Watson, Martin, Otsego, and Gunplain Townships only).
Alpena.
Antrim.
Arenac.
Barry.
Bay.
Benzie.
Calhoun.
Charlevoix.
Cheboygan.
Clare.
Clinton.
Crawford.
Eaton.
Emmett.
Genesee.
Gladwin.
Grand Traverse.
Gratiot.
Huron.
Ingham.
Ionia.
Iosco.
Isabella.
Jackson.
Kalamazoo.
Kalkaska.
Kent.
Lake.
Lapeer.
Leelanau.
Livingston.
Macomb.
Manistee.
Mason.
Mecosta.
Midland.

MICHIGAN COUNTIES—Continued

Missaukee.	Otsego.
Monroe (Ash and Berlin Townships only).	Ottawa.
	Presque Isle.
Montcalm.	Roscommon.
Montmorency.	Saginaw.
Muskegon.	St. Clair.
Newaygo	Sanilac.
Oakland.	Shiawassee.
Oceana.	Tuscola.
Ogemaw.	Washtenaw.
Osceola.	Wayne.
Oscoda.	Wexford.

§ 1040.3 Route disposition.

"Route disposition" means a delivery, either directly or through any distribution facility (including a delivery by a vendor or sale from a plant or plant store) of any fluid milk product classified as Class I milk to a wholesale or retail outlet other than a delivery to any milk or filled milk plant.

§ 1040.4 [Reserved]

§ 1040.5 Distributing plant.

"Distributing plant" means a plant in which milk approved by any duly constituted regulatory agency for fluid consumption in the marketing area is processed or packaged and from which there is route disposition of fluid milk products in consumer-type packages or dispenser units in the marketing area.

§ 1040.6 Supply plant.

"Supply plant" means a plant in which milk approved by any duly constituted regulatory agency for fluid consumption in the marketing area is assembled and either processed or shipped in the form of a bulk fluid milk product to another milk processing plant. Such supply plant shall be equipped with stationary holding facilities.

§ 1040.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant, from which total route disposition except filled milk, during the month or during either of the 2 months immediately preceding is not less than 50 percent of receipts of producer milk and fluid milk products, except filled milk, from supply plants and cooperative associations pursuant to § 1040.9(c).

(b) A supply plant which during the month meets one of the performance requirements specified in subparagraphs (1), (2), or (3) of this paragraph and any applicable call percentage: *Provided*, That all supply plants which are operated by one handler, or all the supply plants for which a handler is responsible for meeting the performance requirements of this paragraph (b) under a marketing agreement certified to the market administrator by both parties, may be considered as a unit for the purpose of meeting the performance requirements of subparagraphs (1), (2), or (3) of this paragraph upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice and notice of any change in designation, shall be furnished on or before the fifth working day following the month to which the notice applies. In any months of April through September a unit shall not contain any plant which was not qualified under this paragraph either individually or as a member of a unit during the previous October through March.

(1) A plant from which the milk moved during the month to a distributing plant(s) qualified under paragraph (a) of this section is not less than 40 percent or the call percentage, whichever is higher, in any month October through March, and 30 percent or the call percentage, whichever is higher, in any month April through September, of the following net quantity: Subtract from the monthly receipts of Grade A milk at the plant (including receipts of a handler described in § 1040.9(c), (i) any receipts by transfer or diversion from another plant, and (ii) any milk utilized by the handler operating the plant qualifying pursuant to this paragraph for his own Class I disposition in consumer packages. If such plant has meet the required percentage during each of the months of October through March, it shall remain qualified under this subparagraph for each of the following months of April through September during which it meets any announced call percentage.

(2) A plant operated by a cooperative association which supplies distributing plants qualified under paragraph (a) of this section, either by shipment from such supply plant or by direct delivery from the farm, (i) not less than one-half of its total member producer milk in the current month, or (ii) if such plant were qualified under this subparagraph in each of the preceding 13 months, not less than one-half of its total member producers' milk for the second through the 13th preceding months, except that in either case an announced call percentage exceeding 50 percent in the current month must be met.

(3) A plant located in the marketing area operated by a cooperative association, which plant has been a pool plant for 12 consecutive months but is not otherwise qualified under this paragraph, on meeting the following conditions:

(i) The cooperative has a marketing agreement with another cooperative whose members deliver at least 50 percent of their milk during the month directly to distributing plant(s) qualified under paragraph (a) of this section; and

(ii) The aggregate monthly quantity supplied by both such cooperatives to such distributing plants either by shipment from the cooperative's plant or by direct delivery from farms is not less than 50 percent or the call percentage, whichever is higher, of the combined total of their member producer milk deliveries during the month.

(4) On written request by the handler or cooperative for the nonpool status of any plant automatically qualified as a pool plant under this paragraph April through September, made to the market administrator prior to the beginning of any month during such period, the plant shall be a nonpool plant for such month and thereafter until it requalifies under subparagraph (1) of this paragraph on the basis of actual shipments therefrom. To requalify as a pool plant under subparagraph (2) or (3) of this paragraph or on unit basis, such plant must first have met the shipping requirements of subparagraph (1) of this paragraph for 6 consecutive months.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant; and

(3) A plant or facility at which during the month milk is fully subject to the classification, pricing, and payment provisions of another order issued pursuant to the Act and a greater volume of fluid milk products, except filled milk, is disposed of from such plant as route disposition in the marketing area and to pool plants regulated pursuant to such other order than is so disposed of in the Southern Michigan marketing area. A handler operating such plant shall be exempt for such month from all provisions of this part except §§ 1040.30(d), 1040.71(b), and 1000.5 of this chapter.

§ 1040.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the class 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 under this or any other Federal order issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a producer-handler plant nor an exempt plant and 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 is neither an other order plant nor a producer-handler plant and from which a fluid milk product is shipped during the month to a pool plant.

(e) "Exempt plant" means a plant, other than a plant described in paragraph (b) of this section, located outside the marketing area from which there is route disposition within the marketing area but from which the route disposition wholly or partly within the marketing area averages less than 600 pounds per day for the month, and from which no milk is transferred to other handlers. Only §§ 1040.32 and 1000.5 of this chapter shall apply to an exempt plant.

§ 1040.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to producer milk diverted in accordance with § 1040.13 for the account of such association;

(c) Any cooperative association with respect to milk of its member producers which is delivered directly from the farm to the pool plant of another handler in a tank truck owned, operated by, or under contract to such cooperative association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at a location identical to that of the pool plant to which it is delivered);

(d) Any person who operates a partially regulated distributing plant;

(e) Any producer-handler; and

(f) Any person in his capacity as the operator of an other order plant from which fluid milk products are distributed on routes in the marketing area or shipped to a pool plant.

§ 1040.10 Producer-handler.

"Producer-handler" means a person who:

(a) Operates a dairy farm and a milk plant from which there is route disposition in the marketing area and who received fluid milk products only from his own production or by transfer from a pool plant and no milk products other than fluid milk products for reconstitution into fluid milk products; and

(b) Provides proof that: (1) The care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts by transfer from a pool plant); and (2) the operation of the processing business is the personal enterprise and risk of such person.

§ 1040.11 [Reserved]

§ 1040.12 Producer.

"Producer" means any person, other than a producer-handler under any Federal order, who produces milk approved by any duly constituted regulatory agency for fluid consumption in the marketing area, which is moved to a pool plant or diverted pursuant to § 1040.13 from a pool plant to another plant. The term shall include such a person with respect to milk diverted to a pool plant from an other order plant (unless designated for Class III use) during any month in which the quantity diverted is greater than the quantity of milk physically received from such person at the plant from which diverted and such milk is exempt from the pooling provisions of the other order.

§ 1040.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk:

(a) Received from producers at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1040.9(c); and

(b) Diverted to a nonpool plant (except a producer-handler plant) by the operator of a pool plant or a cooperative association as a handler pursuant to § 1040.9 (b) subject to the following conditions:

(1) In any month that less than 6 days' production of a producer is delivered to pool plants the quantity of milk of the producer diverted during the month shall not be producer milk.

(2) In any month of October through March, the quantity of milk of any producer diverted to nonpool plants that exceeds the quantity of such producer's milk physically received at pool plants, as measured by days of production, shall not be producer milk. The days of production last diverted, which exceed the days of production received at pool plants shall not be producer milk.

(3) Milk which is subject to pooling under another Federal order, shall not be producer milk.

§ 1040.14 Other source milk.

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

(a) Receipts of fluid milk products and bulk fluid cream products from any source other than producers, handlers described in § 1040.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1040.40(b)(1);

(c) Products (other than fluid milk products and products specified in § 1040.40(b)(1)) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1040.40(b)(1)) for which the handler fails to establish disposition.

§ 1040.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk products" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in subparagraph (1) of this paragraph or in § 1040.40 (b) or (c)(1) (i) through (viii) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1040.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1040.17 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).

§ 1040.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

§ 1040.19 Call percentage.

"Call percentage" means the monthly percentage computed by the market administrator as follows:

(a) Estimate the aggregate pounds of Class I milk utilization, except filled milk, for the month including an additional 15 percent thereof as an operating margin, at pool distributing plants;

(b) Subtract therefrom the estimated pounds of milk which will be received at pool distributing plants during the month directly from producers' farms and from cooperative associations pursuant to § 1040.9(c);

(c) Divide any plus balance of estimated Class I milk, except filled milk, remaining by the estimated receipts of producer milk for the month at the supply plants;

(d) The announcement of the call percentage shall be made on or before the 1st day of the month to which it applies and shall set forth the data on which the estimates of Class I utilization and producer milk supplies are based, together with appropriate explanatory comments on the computations involved; and

(e) The market administrator may reduce the call percentage at any time during the month if he determines that more milk than is needed for Class I use is being delivered to pool distributing plants.

Any such reduction shall not result in a percentage requirement less than 40 in any month October through March.

§ 1040.20 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred directly to another tank truck and commingled with other milk before entering a plant. A reload operation on the premises of a plant shall be considered a part of the plant operation.

HANDLER REPORTS

§ 1040.30 Reports of receipts and utilization.

On or before the fifth working day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1040.9(c);

(3) Receipts of fluid milk products and fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1040.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1040.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1040.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1040.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1040.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1040.32 Other reports.

(a) Each handler described in § 1040.9 (a), (b), and (c) shall report to the market administrator on or before the fifth working day after the end of the month, the aggregate quantities of base milk, excess milk, and milk to be paid for either at the uniform or adjusted uniform price.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1040.30 and 1040.31, each handler and each operator of an exempt plant shall report such other information as the market administrator deems necessary to verify or establish such person's obligation under the order.

(c) When a holiday prevents normal business activities on any day except Sunday during the first 15 days of the month, those of the dates specified in §§ 1040.30, 1040.62, 1040.71, 1040.72, 1040.73, 1040.76, 1040.85, and 1040.86 which follows such holiday shall be postponed by the number of days lost as a result of such holiday.

CLASSIFICATION OF MILK

§ 1040.40 Classes of utilization.

Except as provided in §1040.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1040.30 shall be classified as follows:

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

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

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

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

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, or any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt. Any product specified in this subparagraph that is modified by the addition of nonfat milk solids shall be Class II milk in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content;

(2) In packaged inventory at the end of the month of the products specified in subparagraph (1) of this paragraph; and

(3) Used to produce cottage cheese, lowfat cottage cheese, and dry curd cottage cheese.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(iii) Any milk product in dry form;

(iv) Milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(v) Custards, puddings, and pancake mixes;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(vii) Evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(viii) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in paragraph (b)(1) of this section; and

(ix) Any product that is not a fluid milk product and that is not specified in subdivisions (i) through (viii) of this subparagraph or in paragraph (b) of this section;

(2) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages;

(3) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(4) In fluid milk products and products specified in paragraph (b) of this section that are disposed of by a handler for animal feed;

(5) In fluid milk products and products specified in paragraph (b) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(6) In skim milk in any modified fluid milk product or modified product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition or classified as Class II milk, as the case may be; and

(7) In shrinkage assigned pursuant to § 1040.41(a) to the receipts specified in § 1040.41(a)(2) and in shrinkage specified in § 1040.41 (b) and (c).

§ 1040.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a

handler pursuant to § 1040.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in subparagraph (1) of such paragraph that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1040.9(c) and in milk diverted to such plant from another pool plant, except that in either case if the operator of the plant to which the milk is delivered purchases the milk on the basis of weights determined by farm bulk tank calibration and butterfat tests bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding milk received by diversion and the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in subparagraphs (1), (2), (4), (5), and (6) of this paragraph; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1040.9 (b) or (c) but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1040.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant except as provided in § 1040.43(d) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1040.44(a)(12) and the corresponding step of § 1040.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1040.44(a)(7) or the corresponding step of § 1040.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1040.44(a)(11) or § 1040.44(a)(12) or the corresponding steps of § 1040.44(b)), the skim milk or butterfat so transferred or diverted up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers, or diversions in bulk form shall be classified as Class II or Class III to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For the purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1040.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in (*a*) and (*b*) of this subdivision are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in subdivisions (ii) through (viii) of this subparagraph:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1040.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1040.43 General classification rules.

In determining the classification of producer milk pursuant to § 1040.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1040.30 and shall compute the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1040.40, 1040.41, and 1040.42.

(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 in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1040.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) Milk in bulk delivered by a cooperative association as a handler under § 1040.9(c) or from the pool plant of a cooperative association to a handler's pool plant shall be classified according to use or disposition by the latter handler and the value thereof at the class prices shall be included in his value of milk pursuant to § 1040.60.

§ 1040.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1040.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to subparagraph (7) (vi) 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;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1040.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Except for the first month that a pool plant is subject to this subparagraph, subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1040.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1040.40(c)(6)), any product specified in § 1040.40(b), but not in excess of the pounds of skim milk remaining in Class II;

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

(i) Other source milk (except that received in the form of a fluid milk product) and packaged inventory at the beginning of the month of products specified in § 1040.40(b) (1) that was not subtracted pursuant to subparagraphs (4), (5), and (6) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

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

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2) and (7)(v) of this paragraph for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2), (7)(v), and (8)(i) of this paragraph which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I at this allocation step the sum of the pounds of skim milk in receipts of producer milk, milk from a handler described in § 1040.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to subparagraph (7)(vi) of this paragraph; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraph (7)(vi) of this paragraph, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1040.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to subparagraph (5) of this paragraph;

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

(11) Subtract from the pounds of skim milk remaining in each class pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step, with the quantity prorated to Class II and Class III combined being subtrated first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2), (7)(v) and (8) (i) and (ii) of this paragraph and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to subparagraphs (7)(vi) and (8)(iii) of this paragraph:

(i) Subject to the provisions of subdivision (ii) of this subparagraph, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1040.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step; and

(ii) Should the proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1040.42 (a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received pursuant to § 1040.43 (d), 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) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1040.44(a)(14) and the corresponding step of § 1040.44(b).

§ 1040.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1040.44(a)(12) and the corresponding step of § 1040.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(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 or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1040.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

Class Prices

§ 1040.50 Class prices.

Subject to the provisions of § 1040.52, 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 preceding month plus $1.60.

(b) *Class II price.* The Class II price shall be the Class III price plus 15 cents.

(c) *Class III price.* The Class III price shall be the basic formula price, 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 per pound 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 for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; 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.

§ 1040.51 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.

§ 1040.52 Plant location adjustments for handlers.

(a) For producer milk received at a pool plant and classified as Class I milk

without movement in bulk to another pool plant and for which a location adjustment is applicable, the Class I price computed pursuant to § 1040.50(a) shall be reduced pursuant to subparagraph (1) or (2) of this paragraph on the basis of the applicable rate per hundredweight for the location of such plant.

(1) *Zone rates.* For a plant located within the following described territory, including the cities located therein, the applicable zone rates shall be as follows:

MICHIGAN COUNTIES

ZONE I—NO ADJUSTMENTS

Genesee.	Monroe.
Lenawee.	Oakland.
Macomb.	Wayne.

Bay (except Gibson, Mount Forest, Pinconning, Garfield, and Fraser Townships).

Saginaw (except Jonesfield, Richland, Lakefield, Fremont, Marion, Brant, Chapin, Brady, Chesaning, and Maple Grove Townships).

St. Clair (except Berlin, Riley, Mussey, Emmett, Lynn, Brockway, Greenwood, Grant, and Burtchville Townships).

Washtenaw (except Manchester, Bridgewater, Sharon, Freedom, Sylvan, Lima, Lyndon, and Dexter Townships).

ZONE II—3 CENTS

Ingham.	Livingston.
Jackson.	

Washtenaw (all the townships excluded from Zone I).

ZONE III—5 CENTS

Arenac.	Isabella.
Clinton.	Lapeer.
Eaton.	Midland.
Gladwin.	Sanilac.
Gratiot.	Shiawassee.
Huron.	Tuscola.

Bay (all the townships excluded from Zone I).

Ionia (except Otisco, Orleans, Keene, Easton, Boston, Berlin, Campbell, and Odessa Townships).

Montcalm (except Reynolds, Winfield, Cato, Belvidere, Pierson, Maple Valley, Pine, Douglass, Montcalm, Sidney, Eureka, and Fairplain Townships).

Saginaw (all the townships excluded from Zone I).

St. Clair (all the townships excluded from Zone I).

ZONE IV—7 CENTS

Barry.	Kalamazoo.
Branch.	Kent.
Calhoun.	Mecosta.
Hillsdale.	St. Joseph.

Allegan (all the townships excluded from Zone V).

Ionia (all the townships excluded from Zone III).

Montcalm (all the townships excluded from Zone III).

ZONE V—9 CENTS

Berrien.	Newaygo.
Cass.	Oceana.
Clare.	Ogemaw.
Iosco.	Osceola.
Lake.	Ottawa.
Mason.	Roscommon.
Missaukee.	Van Buren.
Muskegon.	

Allegan (except the townships of Dorr, Gunplain, Hopkins, Leighton, Martin, Otsego, Watson, and Wayland).

ZONE VI—12 CENTS

Alcona.	Manistee.
Crawford.	Oscoda.
Grand Traverse.	Wexford.
Kalkaska.	

ZONE VII—15 CENTS

Alpena.	Emmet.
Antrim.	Leelanau.
Benzie.	Montmorency.
Charlevoix.	Otsego.
Cheboygan.	Presque Isle.

(2) *Mileage rate.* For any plant at a location outside the territory specified in the preceding subparagraph (1) of this paragraph, the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest point in such territory as determined by the market administrator, and shall be the amount of the zone differential applicable at such point plus 1 cent for each 10 miles or fraction thereof from such point.

(b) For fluid milk products transferred in bulk from a pool plant to a pool plant described in § 1040.7(a), the operator of the transferee-plant shall receive credit at the applicable zone or mileage rate, based on the location of the transferor-plant. The total volume on which such credit is computed shall be limited to the amount by which 108 percent of Class I disposition at the transferee-plant is in excess of the sum of receipts at such plant: (1) From producers, (2) from cooperative associations pursuant to § 1040.9(c), and (3) from other order plants and unregulated supply plants which are assigned in Class I, such assignment of receipts from the transferor-plant to be pro rata to receipts of fluid milk products from all transferor pool plants.

(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 not be less than the Class III price.

§ 1040.53 Announcement of class prices.

The market administrator shall announce publicly on or before the 5th day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1040.54 Equivalent price.

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

UNIFORM PRICES

§ 1040.60 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 § 1040.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk and milk received pursuant to § 1040.43(d) in each class as determined pursuant to § 1040.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1040.44(a)(14) and the corresponding step of § 1040.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1040.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1040.44(a)(9) and the corresponding step of § 1040.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1040.44(a)(7) (i) through (iv) and the corresponding step of § 1040.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1040.44(a)(7) (v) and (vi) and the corresponding step of § 1040.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1040.44(a)(11) and the corresponding step of § 1040.44(b), excluding such skim milk and butterfat in receipts of bulk 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 any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the 1st month that this paragraph is effective with respect to handlers regulated under this part during the preceding month, subtract the amount obtained from multiplying the difference between the Class I price for the preceding month applicable at the location of the pool plant and the Class III price for the preceding month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1040.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk. For the first month that this paragraph

is effective with respect to handlers regulated under Part 1043 during the preceding month, subtract the amount obtained from multiplying the difference between the Class II price and the Class III price for the preceding month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1040.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class II milk.

§ 1040.61 Computation of uniform prices for base milk and excess milk (including uniform price and adjusted uniform price).

For each month the market administrator shall compute:

(a) The 3.5-percent value of all milk by:

(1) Combining into one total the values computed pursuant to § 1040.60 for all handlers who filed the reports prescribed by § 1040.30 for the month and who made the payments pursuant to § 1040.71 for the preceding month;

(2) Adding the aggregate of the values of the applicable location adjustments pursuant to § 1040.75(a)(1); and

(3) Adding not less than one-half of the unobligated balance in the producer-settlement fund.

(b) A uniform price as follows:

(1) Divide the aggregate value computed pursuant to paragraph (a) of this section by the sum of the following:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1040.60(f); and

(2) Subtract not less than six nor more than 7 cents from the price computed pursuant to paragraph (a) of this section.

(c) An adjusted uniform price for the purpose of payments pursuant to § 1040.92(c) by deducting from the uniform price computed pursuant to paragraph (b) of this section 25 percent of the difference between the uniform price and the excess milk price, rounded to the nearest cent.

(d) The excess milk price which shall be the Class III price pursuant to § 1040.50(c).

(e) A uniform price for base milk as follows:

(1) Multiply the total pounds of excess milk for the month by the excess milk price;

(2) Multiply the total amount of milk to be paid for at the uniform price pursuant to § 1040.92 (d) and (e)(2) by the uniform price for the month;

(3) Multiply the total amount of milk to be paid for at the adjusted uniform price pursuant to § 1040.92(c) by the adjusted uniform price for the month;

(4) Subtract the total values arrived at in subparagraphs (1), (2), and (3) of this paragraph and § 1040.71(a)(2)(ii) from the total 3.5-percent value of all producer milk arrived at in paragraph (a) of this section;

(5) Divide the resultant value by the total hundredweight of base milk; and

(6) Subtract not less than 6 cents nor more than 7 cents. The resultant hundredweight price shall be the uniform price of base milk of 3.5-percent butterfat content.

§ 1040.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price, the adjusted uniform price, the price for base milk, and the price for excess milk.

PAYMENTS FOR MILK

§ 1040.70 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 §§ 1040.71, 1040.76, and 1040.77 and out of which he shall make all payments due handlers pursuant to §§ 1040.72 and 1040.77.

§ 1040.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in subparagraph (1) of this paragraph exceeds the amount specified in subparagraph (2) of this paragraph:

(1)(i) The total value of milk of the handler for such month as determined pursuant to § 1040.60; or

(ii) In the case of a cooperative association which is a handler, the value, at the uniform price for base milk, of milk delivered to other handlers pursuant to § 1040.43(d).

(2) The sum of:

(i) The value of such handler's receipts of producer milk as specified in § 1040.73 excluding any applicable location adjustment pursuant to § 1040.75(a)(2) and (3); and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1040.60(f).

(b) On or before the 25th day after the end of the month each handler who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1040.72 Payments from the producer-settlement fund.

On or before the 14th 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 § 1040.71(a)(2) exceeds the amount computed pursuant to § 1040.71(a)(1). 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 to all handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 1040.73 Payments to producers and to cooperative associations.

(a) Except as provided by paragraph (b) of this section, on or before the 15th day of each month, each handler (except a cooperative association) shall pay each producer for milk received from him during the preceding month, not less than an amount of money computed by multiplying the total pounds of such milk by the applicable uniform prices computed pursuant to § 1040.61 adjusted by the location and butterfat differentials pursuant to §§ 1040.75 and 1040.74, respectively, less the payment made pursuant to paragraph (d) of this section and any proper deductions authorized by the producer. If by such date such handler has not received full payment for such month pursuant to § 1040.72 he may reduce such payments uniformly per hundredweight for all producers, by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association on or before the second day prior to the end of the month an amount equal to the payments authorized pursuant to paragraph (d) of this section, and on or before the 13th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all such milk received from certified members, less amounts owing by

each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer.

(1) Each handler shall submit to the cooperative association written information on or before the sixth working day of each month which shows for each such member-producer:

(i) The total pounds of milk received from him during the preceding month;

(ii) The total pounds of butterfat contained in such milk;

(iii) The number of days on which milk was received; and

(iv) The amounts withheld by the handler in payment for supplies sold;

(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 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; and

(3) The foregoing payment and the submission of information pursuant to subparagraph (1) of this paragraph, shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the 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 association.

(c) On or before the 13th day after the end of each month, each handler shall pay a cooperative association, which is a handler with respect to milk received by him from a pool plant operated by such cooperative association, or by bulk tank delivery pursuant to § 1040.9(c), not less than an amount computed by multiplying the uniform price for base milk subject to the location adjustment, if any, applicable at the transferee-plant as provided by § 1040.75 and the butterfat differential provided by § 1040.74 by the total hundredweight of milk received by such handler from the cooperative association.

(d) On or before the last day of each month for producer milk received during the first 15 days of the month at not less than the Class III milk price for the preceding month.

§ 1040.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the base price and excess price or the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.113 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.

§ 1040.75 Plant location adjustments for producers and on nonpool milk.

(a) Subject to the conditions of paragraph (b) of this section, in making payments to producers or cooperative associations pursuant to § 1040.73 each handler:

(1) May deduct for base milk and milk to be paid for at the uniform price or adjusted uniform price the rate per hundredweight applicable pursuant to § 1040.52(a) (1) or (2) for the location of the plant at which the milk was first physically received.

(2) Shall add not less than 4 cents per hundredweight with respect to milk received from producers and cooperative associations pursuant to § 1040.9(c) at a pool plant located in those townships, including the cities located therein, of Oakland County other than Royal Oak and Southfield, all in the State of Michigan.

(3) Shall add not less than 8 cents per hundredweight with respect to milk received from producers and cooperative associations pursuant to § 1040.9(c) at a pool plant located within Wayne County and the townships of Royal Oak and Southfield including the cities located therein, in Oakland County, all in the State of Michigan.

(b) When milk of an individual producer is physically received at more than one location (including any nonpool plant) during the month, the location adjustment rate shall be the weighted average (rounded to the nearest one-half cent) of the amounts computed for the respective locations, except that if 65 percent or more of such producer's milk is delivered to a plant or plants at which the same rate is applicable, such rate shall be applicable to all deliveries of such producer during the month regardless of point of delivery.

(c) For purposes of computation pursuant to §§ 1040.71 and 1040.72, the uniform price shall be adjusted at the rates set forth in § 1040.52 applicable at the location of the nonpool plant from which the other source milk was received except that the uniform price by such adjustment shall not be less than the Class III price.

§ 1040.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1040.30(b) and 1040.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

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

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

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1040.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1040.60 shall be

priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1040.60 for such handler shall include, in lieu of the value of other source milk specified in § 1040.60(f) less the value of such other source milk specified in § 1040.71(a)(2)(ii), a value of milk determined pursuant to § 1040.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1040.7(b)(1), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1040.30 (b) and 1040.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply 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 verification purposes; and

(*c*) The value of milk determined pursuant to § 1040.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments (adjusted to 3.5 percent butterfat value using the butterfat differential pursuant to § 1040.74) by the operator of such partially regulated distributing plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments (adjusted to 3.5 percent butterfat value using the butterfat differential pursuant to § 1040.74) by the operator of such nonpool supply plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if subparagraph (1)(iii) of this paragraph applies.

§ 1040.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler;

(b) To such handler from the market administrator; or

(c) To any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred, following the fifth day after such notice.

§ 1040.78 Charges on overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1040.71, 1040.77, 1040.85, and 1040.86, shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

Administrative Assessment and Marketing Service Deduction

§ 1040.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a handler described in § 1040.9(c) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 13th day after the end of the month 2 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including milk of such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1040.44(a) (7) and (11) and the corresponding steps of § 1040.44(b), except such other source milk that is excluded from the computation pursuant to § 1040.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1040.76(a)(2).

§ 1040.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 1040.73(a) for milk received from each producer (including milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him;

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, for which payment is not made pursuant to § 1040.73(b) or (c), and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 1040.73 as may be authorized by such producers, and pay such deductions on or before the 13th day after the end of the month to the cooperative association rendering such services of which such producers are members.

Base-Excess Plan

§ 1040.90 Base milk.

"Base milk" means the amount of milk delivered by a producer each month which is not in excess of his base computed pursuant to § 1040.92 multiplied by the number of days for which his milk production is delivered during the month.

§ 1040.91 Excess milk.

"Excess milk" means milk delivered by a producer each month in excess of his base milk.

§ 1040.92 Determination of base.

(a) A producer who delivered milk on at least 122 days during the period August 1 through December 31, inclusive, of any year shall have a base computed by the market administrator to be applicable, subject to § 1040.94, for the 12-month period beginning the following February 1, equal to his daily average milk deliveries from the date on which milk was first delivered in the period to the end of such August 1–December 31 period: *Provided*, That a producer who had a base on December 1 and whose average of daily deliveries for the August 1–December 31 period is less than such base shall have a base computed by subtracting from his previous base any amount by which 90 percent of his previous base exceeds such average of daily deliveries;

(b) A producer with an established base who does not forfeit his base pursuant to § 1040.93(c) but who fails to deliver milk on at least 122 days of the August 1 through December 31 period shall have his base for the 12 months beginning the following February 1 computed by dividing the total pounds shipped during the period by 122;

(c) Except as provided in paragraphs (d) and (e) of this section a producer who has no base shall be paid until February 1 following the August–December period within which he establishes a

base pursuant to paragraph (a) of this section at not less than the adjusted uniform price computed pursuant to § 1040.61(c);

(d) Whenever total receipts of producer milk by all handlers during the month are less than 112.5 percent of the total Class I utilization of all milk by handlers during such month, all producers and cooperative associations shall be paid not less than the uniform price for all milk delivered; and

(e) When a plant first becomes a pool plant any producer delivering to such plant may:

(1) Establish a base on deliveries of milk to such plant for the preceding August–December period certified by submission of delivery receipts or other evidence satisfactory to the market administrator; or

(2) Elect payment at not less than the uniform price computed pursuant to § 1040.61(b) until the second February 1, after such plant first became a pool plant. Such election must be made on or before the end of the first month for which it is effective.

§ 1040.93 Application of bases.

(a) A base shall apply to deliveries of milk by the producer for whose account milk was delivered during the base period, and upon death may be transferred to a member or members of the deceased producer's immediate family;

(b) Bases may be transferred under the following conditions upon written notice by the holder of the base to the market administrator on or before the last day of the month that such base is to be transferred:

(1) Upon retirement or entry into military service of a producer, the entire base may be transferred to a member or members of his immediate family;

(2) Two or more producers with bases may combine those bases upon the formation of a bona fide partnership which must define the financial invested interest, financial and management responsibility, division of income and expenses, and sharing of profits or losses; and

(3) Bases may be held jointly through the formation of a bona fide partnership provided such base was established by the partnership in accordance with § 1040.92 and if such partnership is terminated the base may be divided among the partners as specified in writing to the market administrator; and

(c) A producer who does not deliver milk to any handler for 45 consecutive days shall forfeit his base except that the following producers may retain their bases without loss for 12 months:

(1) A producer who suffers the complete loss of his barn as a result of fire or windstorm;

(2) A producer for whom loss of 50 percent or more of the milk herd from brucellosis or bovine tuberculosis, is shown by evidence issued under State or Federal authority; or

(3) A producer who is quarantined from the market by evidence of pesticide or herbicide residue in his milk supply as evidenced by Federal or State authority.

§ 1040.94 Relinquishing a base.

A producer notifying the market administrator that he relinquishes his established base shall be paid pursuant to the provisions of § 1040.92(c) beginning with the first day of the month in which such notification is received by the market administrator until the next February 1.

§ 1040.95 Computation of base.

The market administrator shall calculate a base for each producer in accordance with § 1040.92 and advise the producer and the handler receiving the milk of such base.

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PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

THERMALLY PROCESSED LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

Manufacture and Processing

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 128b—THERMALLY PROCESSED LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

A notice of a petition filed by the National Canners Association (NCA), 1133 20th Street NW., Washington, DC 20036, on the commercial processing of foods in hermetically sealed containers was published in the FEDERAL REGISTER of November 12, 1971 (36 FR 21688). The petition proposed that there be promulgated in Part 3 of this chapter a statement of policy regarding the application of emergency permit provisions of section 404 of the Federal Food, Drug, and Cosmetic Act to the commercial processing of foods for human consumption manufactured, processed, or packed in hermetically sealed containers which are processed by heat either before or after being sealed in the containers.

This petition, accompanied by an index and appendix, was published as received and was regarded by the Commissioner of Food and Drugs as a regulation proposal, with the usual opportunity for interested persons to submit written comments within 60 days. In response to the notice, 30 comments were received from members of industry, trade associations, and a law school. In addition, the petitioner submitted revisions of the proposal which incorporated comments it had received directly from respondents or that were filed with the Hearing Clerk.

On November 14, 1972, a notice was published in the FEDERAL REGISTER (37 FR 24117) that a tentative final order, containing minimum good manufacturing regulations for thermally processed low-acid foods packaged in hermetically sealed containers, had been prepared and had been placed on display in the Hearing Clerk's office for a period of 20 days beginning November 15, 1972, and ending on December 4, 1972. Any persons who wished to submit further comment or to meet with Food and Drug Administration officials to discuss the tentative final order were invited to do so within the 20 days. In response to this notice, 14 comments were received from eight members of industry, three trade associations, one State, one university, and one Member of Congress.

After consideration of all of the comments, the revisions submitted by the petitioner, and further discussions with the petitioner, the Commissioner concludes that the complexities of regulations governing application of section 404 of the Federal Food, Drug, and Cosmetic Act, as proposed by the petitioner, require further study. Such regulations, including both the registration and record inspection provisions proposed by NCA and general procedural regulations with respect to the use of section 404, are presently being developed in order to establish an adequate enforcement mechanism. In the meanwhile, regulations are needed to specify good manufacturing practices to be followed in the manufacture, processing, or packing of thermally processed low-acid foods packaged in hermetically sealed containers. It is important that these substantive requirements be promulgated as soon as possible, and that they not be delayed pending development of the procedural and enforcement provisions. The Commissioner therefore concludes that the appendix to the statement of policy proposed by NCA, together with the comments received regarding the appendix, with modifications which the Commissioner deems to be necessary, should be promulgated as minimum good manufacturing practices regulations for thermally processed low-acid foods packaged in hermetically sealed containers.

The comments received and the Commissioner's conclusions are as follows:

Several comments were received regarding the definition of low-acid foods. One trade association suggested changing the definition to include products with a pH of 4.5 or greater. One manufacturer recommended that, inasmuch as the pH value of a low-acid food must be an arbitrary selection of some pH value below 7, the definition be set at a level greater than the proposed 4.6 for 1 or 2 years after the effective date of the regulations in order to allow processors time to comply with the regulations. The selection of a pH value of "greater than 4.6" in the definition is based on available scientific information as to the conditions under which microorganisms of public health significance can grow and/or produce toxins. The value allows for the safety factor which is deemed adequate and necessary to protect the public health. The Commissioner fails to see how the selection of a pH value above that proposed for 1 or 2 years is in the interest of public health nor does he believe that a pH value of 4.5 as the maximum is necessary. The Commissioner has rejected the suggestion of another trade association that allowances be made in the definition of low-acid foods, or elsewhere, for the normal variations of results obtained using commercial pH meters; it is the function of the commercial processor to ensure that such instruments are operating accurately. One manufacturer recommended a change in that part of the proposed definition relating to "any food in which for the purpose of processing the pH value is reduced by acidification." He suggested that "food" be further defined as a "normally low-acid fruit or vegetable." The Commissioner has accepted this recommendation, has elaborated upon it, and, accordingly, has revised the definition of low-acid foods.

Seven comments recommended exclusion from coverage under the regulation, as finally adopted, of food products which, because of a low-water activity or high-sugar content, do not contain sufficient moisture to support the growth of pathogens. The Commissioner finds that it was not the intent of the proposal to include such products. The definition of "low-acid foods" has been rewritten specifically to exclude those products with a moisture content as expressed by a water activity of 0.85 or less, which is deemed insufficient to allow the growth of pathogens.

Five comments recommended that foods to which heat is applied primarily for some purpose other than to achieve commercial sterility, such as pasteurization, flavor development, or removal of moisture, be excluded from coverage under the regulations. The Commissioner finds that it was not the intent of the proposal to include such foods. Such foods will not be subject to coverage under the good manufacturing practices regulations set forth below.

One trade association requested that the application of the tentative final order to the pet food industry be suspended until the association and members of the industry have an opportunity to carefully study and review the proposed regulations and offer formal comments to the Food and Drug Administration. The original proposal did not exempt the pet food industry, and the Commissioner, as well as others with interest in this matter, had always considered that the regulation should apply to that segment of the canning industry and affirms that fact. In the event that evidence should later demonstrate that there is no need to apply the subject regulation to canned pet foods, the Commissioner will consider any such evidence brought to his attention.

Three persons commented regarding the definition of hermetically sealed container. One of these persons wished to clarify the fact that plastic containers may be used for packaging. The Commissioner has determined that the intent of the definition in the proposal was to define the container's function, not to define the material of which the container is to be constructed. The definition has been revised to clarify the function of a hermetically sealed container; however, it does not specify the material of which the container is to be constructed. Any material which otherwise fulfills all of the requirements of the Federal Food, Drug, and Cosmetic Act may be used in the construction of the container.

Two comments were received regarding the definition in the proposal of "commercial sterility". One trade association stated that at least 1 year of additional study would be needed to determine whether the new definition of commercial sterility would result in prolonged processing which would affect the nutritional quality of foods. One manufacturer recommended that the definition not include the requirement that foods be free of viable forms of more heat resistant micro-organisms of nonhealth significance capable of reproducing under normal conditions of storage and distribution. The Commissioner has determined that the definition of commercial sterility in the proposal is not a "new" definition and that it is generally accepted as a re-

quired condition for low-acid foods in hermetically sealed containers. The definition of commercial sterility as set forth below further defines "normal conditions of storage and distribution" as "normal nonrefrigerated conditions of storage and distribution".

One trade association and one manufacturer recommended that the specification "1 inch or larger" be deleted from the definition of "vents" because it is excessively detailed and restrictive to the point of limiting engineering solutions which properly should take into consideration the construction and layout of the particular establishment. The specification "1 inch or larger" has been deleted from the definition of "vents" as set forth below.

Ten persons commented on the proposed requirements regarding container coding. Their principal objection was to the requirement that the packing period code be changed every 4 hours or less. The suggestion was made that the change be based on the number of containers processed. The regulation set forth below has been revised to require that the packing period code be changed with sufficient frequency to enable ready identification of lots during their sale and distribution. Although this regulation does not specify the time interval for changing the packing period code, such time intervals are suggested. One manufacturer requested that the code on glass containers not be required to include product identification. The Commissioner, after consideration of this comment and other available information, concludes that the purpose of requiring the container code is to identify a lot of product throughout its history of processing, sale, and distribution. The requirement that the container code specify the product contained therein is not solely to aid in the identification of the contents of the container but also to allow for the identification of production and processing records which relate to a specific lot of product. The inclusion in the code of the identity of the product is essential in order to differentiate between processing records of different products processed at the same plant, on the same date, and during the same packing period. The regulation as set forth below retains the provision that the container code include the identity of the product contained therein. One trade association suggested that provisions be made to allow a processor to add additional information in the code as, for example, the line on which production took place. The proposal required that the container code provide information regarding the establishment where packed, the product contained therein, the year packed, the day packed, and the period of the day packed. The Commissioner finds that the container coding requirements, as proposed, do not prevent the processor from including any other information in the code which he deems necessary.

One trade association opposed the proposed requirements regarding processing and production records. While agreeing to the need to maintain and keep such records, this trade association took exception to several of the requirements as being excessive, unwarranted, and unnecessary. The Commissioner finds that the recordkeeping requirements as set forth in the proposal and in the regulation below are necessary to permit a determination from the records of whether the thermal processing was sufficient to achieve commercial sterility of the product or to destroy micro-organisms of public health significance.

One trade association objected to the requirement that permanent records be kept of the development of the processes used. This comment is rejected because the Commissioner is of the opinion that the establishment of a process and the proof that the process is safe are essential in the assurance that the food processed is commercially sterile.

Two comments were received regarding the proposed requirements for the examination of container closures and the recording of observations of such examinations. It was suggested that the intervals required for visual examination of container closures and for teardown examination of can seams be based not on time but on the number of containers moving through the closing machine. This portion has been revised to delete the proposed requirement that such container closure examinations be done at specified time intervals, although certain time intervals are recommended. The opposition to the recording of observations is rejected on the basis that the keeping of such records is an accepted good manufacturing practice.

Ten persons commented on the proposed requirement that the retort room operations and the container closure inspections be performed under the "direct personal supervision" of a supervisor or manager who has attended an approved course of instruction in retort operations or container closure inspection. The recommendation that the words "direct personal" be deleted has been accepted and the regulation as set forth below requires that operators of retorts, processing systems, and aseptic packaging systems, and container closure inspectors be under the "operating supervision" of a person who has attended a school approved by the Commissioner. The Commissioner states that it is the intent of this requirement for a person or persons who has (have) attended a school approved by the Commissioner and who has (have) been identified by that school as having satisfactorily completed the prescribed courses of instruction to be on duty at the plant whenever low-acid foods are being thermally processed and/or packaged in hermetically sealed containers. One manufacturer suggested that such supervisors be identified on the basis of experience alone without school attendance. The Commissioner has concluded that the only way to ensure that all such supervisors receive the information regarding operations of retorts, processing systems, and aseptic packaging systems, and container closure inspection which is deemed necessary for proper thermal processing and packaging operations is to require all such supervisors to attend a school approved by him and to be identified by the school as having satisfactorily completed the prescribed courses of instruction. The Commissioner, after consideration of all available information, concludes that 20 months should be sufficient time for processors to ensure that their personnel receive this required training. The provisions of § 128b.10 regarding training of personnel shall become effective 20 months after the publication date of this order.

Two trade associations and one manufacturer opposed the proposed requirement that processes and venting procedures be posted in a conspicuous place near the retorts. They recommended that provisions be made for posting such information in such a way that information regarded as trade secrets would not be revealed. The Commissioner agrees and this requirement has been revised to allow the processor to either post the scheduled processes and venting procedures near the processing equipment or make them readily available to the retort or processing system operator and any duly authorized employee of the Food and Drug Administration.

One trade association and one manufacturer took exception to the proposed mandatory requirement that some of the containers on the top of retort baskets, trucks, cars, or crates containing unretorted material be plainly and conspicuously marked with a heat sensitive indicator. The trade association recommended that this requirement be a suggested and optional method of evidencing proper processing. One distributor, one manufacturer of marking inks, and one Member of Congress suggested that each individual food container be marked with a heat sensitive indicator as a means of determining whether or not the containers have been thermally processed. The Commissioner has concluded that the color change of a heat sensitive indicator were applied to each individual food container does not insure that the container has received a thermal process sufficient to render its contents commercially sterile. The Commissioner further concludes that, since such heat sensitive indicators can serve as a visual means of determining if the containers have been retorted, each retort basket, truck, car, or crate containing unretorted materials or some of the containers therein shall be marked with a heat sensitive indicator as stated in the proposal.

One comment was received which recommended deleting the proposed requirement that timing devices be easily read to the nearest minute, on the basis that such a timing device would be totally inadequate for short-time, high-temperature processes. The petitioner, in a revision of the proposal, recommended that pocket or wrist watches not be considered satisfactory for timing purposes. The Commissioner agrees with both of these comments and the section in the regulation regarding timing devices has been revised to reflect these recommendations.

Two comments recommended that provisions be made for the use of temperature indicating devices other than mercury-in-glass thermometers. The Commissioner has determined that the mercury-in-glass thermometer is the recognized standard against which all other temperature indicating devices are checked and calibrated. The regulation as set forth below retains the requirement that all retorts be equipped with mercury-in-glass indicating thermometers. However, because of the speed of the thermal process, alternate temperature indicating devices such as thermocouples will be allowed in aseptic processing and packaging systems. This change is reflected in the regulation as set forth below.

One trade association recommended that the words "and maintains" be deleted from the definition of "coming-up-time". The Commissioner agrees and the definition has been so revised.

Two processors commented that the requirement regarding the temperature sensitivity of a temperature recording device was impractical because it exceeds the capability of any practical available device on the market and is unnecessary in view of the requirements contained elsewhere in the regulations. The Commissioner accepts their recommendation and this requirement has been deleted from the regulation.

One trade association and one manufacturer recommended deletion of the proposed requirement that indicating thermometers be installed "where they are illuminated". They stated in their comments that they wanted to eliminate the possibility of having to install some special illumination for the thermometer only. The Commissioner accepts their recommendation and the regulation has been so revised to state that "Thermometers shall be installed where they can be accurately and easily read".

One trade association and one manufacturer submitted comments concerning recording thermometers. One comment made recommendations concerning the size of the recording chart working scale. The other comment recommended that the recording thermometer be adjusted to "substantially read in agreement" with the mercury-in-glass thermometer. After consideration of these comments and other relevant information, the Commissioner has concluded that those parts of the proposal concerning recording thermometers be revised to state that recording thermometer charts shall have a working scale of not more than 50° F. per inch within a range of 20° F. of the processing temperature and that the temperature recording device for each retort shall be adjusted to agree within 1° F. of the mercury-in-glass thermometer. One person asked whether recorders with two or more pens would satisfy the requirement that there be a temperature recording device for each retort. The Commissioner will allow the use of a multirecording device for more than one retort, provided that each retort record be separate on the chart so that it can be identified.

The Commissioner, after consideration of all available information, has concluded that 90 days should be sufficient time for processors to install recording thermometers on thermal processing equipment. Those provisions of § 128b.6 regarding the installation of recording thermometers on thermal processing equipment shall become effective 150 days after the publication date of this order.

Two comments suggested that pressure gages be made mandatory on all retorts. The Commissioner agrees and those parts of the proposal regarding pressure gages have been revised to make mandatory the equipping of each retort with a pressure gage. One trade association made additional comments recommending certain mandatory requirements for pressure gages regarding scale graduations, testing, and installation on the retorts. The Commissioner has concluded that the recommendations of the trade association are to be included in those parts of the regulation concerning pressure gages; however, the recommendations regarding scale graduations, testing, and means of installation on the retort are not made mandatory requirements.

One trade association commented on that part of the proposal dealing with the steam inlet in still retorts. This trade association recommended that the clause "for proper venting" be changed to read "for proper heating and venting". This recommendation has been accepted in part and the clause has been revised to read "for proper operation of the retort". In response to this trade association's recommendation concerning the wording describing the relative positions of the steam inlet and the vents, the sentence to which they referred has been revised to read "steam may enter either the top portion or the bottom portion of the retort but, in any case, shall enter the portion of the retort opposite the vent; for example, steam inlet in bottom portion and vent in top portion."

One trade association commented that the proposal is in error in that it requires a bottom bleeder in still retorts for pressure processing in steam only where there is top steam inlet and bottom venting. The association recommended that a bottom bleeder be made mandatory on all still retorts (except when processing in water) to take care of condensate and/or water leakage. This recommendation has not been accepted. The Commissioner has concluded that, because of the design and operation of retorts, condensate or water leakage presents no processing problem if steam is introduced into the bottom of the retort and the retort is vented at the top.

One trade association commented extensively on the detailed descriptions in the proposal regarding the venting of still retorts for processing in steam. This trade association commented that the detailed venting procedures mean little or nothing without proper consideration of the size of the steam inlet, the available steam supply and pressure thereof, the size of the retort, and the load within the retort. The Commissioner agrees that these factors affect retort venting. However, the proposal clearly states that the detailed venting procedures are for some typical installations and operating procedures and that other installations and operating procedures may be adequate to ensure proper retort venting. It is the responsibility of each processor to determine that the venting procedures he follows are adequate to ensure removal of air from the retorts before timing of the scheduled process is started.

One manufacturer questioned the need for a pressure recording device on retorts for pressure processing in water. The proposal has been revised to reflect this comment. Pressure recording devices will not be required; however, the regulation as set forth below recommends that retorts for pressure processing in water be equipped with an adjustable relief, or control, valve in the overflow line and requires an automatic pressure controller on the air supply.

Two manufacturers recommended deletion of the requirement for a water level indicator in retorts for pressure processing in water. This recommendation has not been accepted; a means of determining the water level in the retort is essential to ensure that all containers are covered by water during the entire coming-up-time and processing periods. One manufacturer objected to the requirement that approximately 6 in. of water cover the top layer of glass jars during the entire coming-up-time, processing, and cooling periods. The proposal has been revised to reflect this comment and now states that water shall cover the top layer of containers during the entire coming-up-time and processing periods and should cover the top layer of containers during the cooling periods. This same manufacturer recommended a change in the mandatory requirement in the proposal concerning retort headspace and also commented on that part of the proposal regarding the introduction of container cooling water. The proposal has been revised to delete any mandatory requirements regarding retort headspace. The method of introducing cooling water as stated in the proposal was not a mandatory requirement; however, the regulation retains recommendations as to how the cooling water should be introduced.

One trade association and one manufacturer commented regarding the method of determining minimum headspace in containers of homogeneous liquids. The proposal has been revised and the regulation as set forth below allows for the measurement of minimum headspace in solder-tipped, lap seam (vent hole) cans by net weight determination.

At the recommendation of the petitioner and others, new subparagraphs regarding "Emergency stops" and "Temperature drop" have been added to the part of the regulation concerning continuous agitating retorts in order to specify what is to be done to ensure safe processing in the case of a retort jam, breakdown or temperature drop.

One manufacturer commented that "it would appear that less than six temperature recorders should be adequate to assure satisfactory processing records from a hydrostatic cooker, especially when no more than one is required on all other types of cookers." The proposed regulation has been revised and the regulation as set forth below requires that each hydrostatic retort be equipped with a temperature recorder in the steam chamber and additional recorders near the top and bottom of each hydrostatic water leg if the scheduled process specifies maintenance of particular temperatures in the water legs.

Seven comments were submitted concerning the proposed requirements for aseptic canning systems. These comments concerned timing devices, means of calculating the holding tube length, temperature sensing and recording devices, flow rates, flow diversion valves, and resterilization. This part of the proposal has been rewritten in its entirety and the comments received are reflected in the regulation as set forth below.

One comment suggested that the scientific methods used to determine the adequacy of new systems for processing low-acid foods shall include the use of system resistant organisms to inoculate both the product and the system. The regulation as set forth below includes a requirement that acceptable scientific methods be used in establishing heat sterilization processes (including such processes for new systems). Acceptable scientific methods include the use of system resistant organisms to inoculate the product or system, as applicable.

That part of the proposal concerning container cooling has been revised to reflect three comments received regarding chemical or physical treatment of cooling water by means other than chlorination. In response to two comments, those provisions in the proposal regarding the cooling of containers to specified temperatures have been deleted.

All other comments have been carefully considered by the Commissioner and, where deemed to be appropriate, have been incorporated into the regulation as set forth below.

As noted elsewhere in this document, the Commissioner has concluded that the appendix to the statement of policy proposed by the petitioner together with the comments received regarding the appendix shall form the basis for good manufacturing practices regulations for thermally processed low-acid foods packaged in hermetically sealed containers. In addition to revising the proposal to reflect the comments received, the Commissioner has added to, deleted, and rearranged parts of the proposal as he deemed to be necessary for the implementation of the proposed regulation.

Accordingly, having evaluated the comments received and other relevant material, the Commissioner concludes that the regulation should be promulgated as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of the Title 21 is amended by adding a new part 128b as follows:

Sec.
128b.1 Definitions.
128b.2 Current good manufacturing practice.
128b.3 Product preparation.
128b.4 Establishing scheduled processes.
128b.5 Operations in the thermal processing room.
128b.6 Equipment and procedures.
128b.7 Containers.
128b.8 Processing and production records.
128b.9 Deviations in processing.
128b.10 Personnel.

AUTHORITY: Sec. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a).

§ 128b.1 Definitions.

(a) "Aseptic processing and packaging" means the filling of a commercially sterilized cooled product into presterilized containers, followed by aseptic hermetical sealing, with a presterilized closure, in an atmosphere free of micro-organisms.

(b) "Bleeders" means openings used to remove air, that enters with steam, from retorts and steam chambers and to promote circulation of steam in such retorts and steam chambers. Bleeders may serve as a means of removing condensate.

(c) "Coming-up-time" means the time which elapses between the introduction of steam into the closed retort and the time when the retort reaches the required processing temperature.

(d) "Commercial processor" shall include any person engaged in commercial, custom, and so-called sportsman processing or institutional (church, school, penal, or other organization) processing of food.

(e) "Commercial sterility" of food means the condition achieved by application of heat which renders such food free of viable forms of micro-organisms having public health significance, as well as any micro-organisms of nonhealth significance capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution. "Commercial sterility" of equipment and containers used for aseptic processing and packaging of food means the condition achieved by application of heat, chemical sterilant(s), or other appropriate treatment which renders such equipment and containers free of viable forms of micro-organisms having public health significance as well as any micro-organisms of nonhealth significance capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution.

(f) "Flame sterilizer" means an apparatus in which hermetically sealed containers are agitated at atmospheric pressure, by either continuous, discontinuous, or reciprocating movement, over gas flames to achieve sterilization temperatures. A holding period in a heated section may follow the initial heating period.

(g) "Headspace, gross" is the vertical distance between the level of the product (generally the liquid surface) in an upright rigid container and the top edge of the container (the top of the double seam of a can or the top edge of a glass jar).

(h) "Headspace, net" of a container having a double seam, such as a can, is the vertical distance between the level of the product (generally the liquid surface) in the upright rigid container and the inside surface of the lid.

(i) "Hermetically sealed container" means a container which is designed and intended to be secure against the entry of micro-organisms and to maintain the commercial sterility of its contents after processing.

(j) "Incubation" means the holding of a sample(s) at a specified temperature for a specified period of time before examination.

(k) "Initial temperature" means the average temperature of the contents of the coldest container to be processed at the time the sterilizing cycle begins, as determined after thorough stirring or shaking of the filled and sealed container.

(l) "Lot" means the product produced during a period of time indicated by a specific code.

(m) "Low-acid foods" means any foods, other than alcoholic beverages, with a finished equilibrium pH value greater than 4.6 and a water activity greater than 0.85 and also includes any normally low-acid fruits, vegetables, or vegetable products in which for the purpose of thermal processing the pH value is reduced by acidification. Tomatoes, pears, and pineapples, or the juices thereof, having a pH of less than 4.7 and figs having a pH of 4.9 or below shall not be classed as low-acid foods.

(n) "Minimum thermal process" means the application of heat to food, either before or after sealing in a hermetically sealed container, for a period of time and at a temperature scientifically determined to be adequate to ensure destruction of micro-organisms of public health significance.

(o) "Retort" means any closed vessel or other equipment used for the thermal processing of foods.

(p) "Scheduled process" means the process selected by the processor as adequate under the conditions of manufacture for a given product to achieve commercial sterility. This process may be in excess of that necessary to ensure destruction of micro-organisms of public health significance.

(q) "Shall" and "should." As used in this part, "shall" refers to mandatory requirements and "should" refers to recommended or advisory procedures or equipment.

(r) "Vents" means openings controlled by gate, plug cock, or other adequate valves used for the elimination of air during the venting period.

(s) "Water activity" or "a_w" means the vapor pressure of the food product divided by the vapor pressure of pure water

under identical conditions of pressure and temperature.

§ 128b.2 Current good manufacturing practice.

The criteria in §§ 128b.3 through 128b.10 shall apply in determining whether the facilities, methods, practices, and controls used by the commercial processor in the manufacture, processing, or packing of low-acid foods in hermetically sealed containers are operated or administered in a manner adequate to protect the public health.

§ 128b.3 Product preparation.

(a) Incoming raw materials, ingredients, and packaging components should be inspected upon receipt to ensure that they are suitable for processing. Raw materials should be received in an area separate from the processing areas. Prior to being placed in inventory, ingredients susceptible to microbiological contamination which would render them unsuitable for processing either should be examined for microbiological condition or should be received under a supplier's guarantee that they are of a microbiological condition suitable for use in processing low-acid foods. Products should be held prior to processing in such a manner as to minimize growth of micro-organisms.

(b) Blanching by heat, when required in the preparation of food for canning, should be effected by heating the food to the required temperature, holding it at this temperature for the required time, and then either rapidly cooling the food or passing it to subsequent processing without delay. Thermophilic growth and contamination in blanchers should be minimized by the use of adequate operating temperatures and by cleaning. Where the blanched food product is washed prior to filling, potable water should be used.

(c) The filling of containers, either mechanically or by hand, shall be controlled so as to ensure that the filling requirements specified in the scheduled process are met.

(d) The exhausting of containers for the removal of air shall be controlled so as to meet the conditions for which the process was designed. This may be done by heat exhausting, mechanical exhausting, hot brining, or steam injection.

(e) When normally low-acid fruits, vegetables, or vegetable products require sufficient acidification to permit safe processing at low temperatures, such as in boiling water, there shall be careful supervision to ensure that the equilibrium pH of the finished product meets that of the scheduled process.

§ 128b.4 Establishing scheduled processes.

Scheduled processes for low-acid foods shall be established by qualified persons having expert knowledge of thermal processing requirements for low-acid foods in hermetically sealed containers and having adequate facilities for making such determinations. The type, range, and combination of variations encountered in commercial production shall be adequately provided for in establishing the scheduled process. Critical factors which may affect the scheduled process (e.g., minimum headspace, consistency, maximum drained weight, etc.), shall be specified in the scheduled process. Acceptable scientific methods of establishing heat sterilization processes shall include, where necessary, but not be limited to microbial thermal death time data, process calculations based on product heat penetration data, inoculated packs, and incubation tests. Product heat penetration data may be mathematically converted in calculating processes for different container sizes and thermal processing temperatures. If incubation tests are necessary, they shall include containers from test trials and from actual commercial production runs during the period of instituting the process. The incubation tests for establishing scheduled processes should include the containers from the test trials and a number of containers from each of four or more actual commercial production runs. The number of containers from actual commercial production runs should be determined on the basis of recognized scientific methods to be of a size sufficient to ensure the adequacy of the process. Complete records covering all aspects of the establishment of the process and associated incubation tests shall be prepared and shall be permanently retained by the person or organization making the determination.

§ 128b.5 Operations in the thermal processing room.

(a) Scheduled processes and venting procedures to be used for each product and container size being packed shall either be posted in a conspicuous place near the processing equipment or shall be made readily available to the retort or processing system operator and any duly authorized employee of the Food and Drug Administration.

(b) All retort baskets, trucks, cars, or crates containing unretorted food product, or some of the containers on the top of each basket, shall be plainly and conspicuously marked with a heat sensitive indicator, or by other effective means, which will visually indicate to thermal processing personnel whether or not each such unit has been retorted.

(c) The initial temperature of the contents of the containers to be processed shall be determined and recorded with sufficient frequency to ensure that the temperature of the product is no lower than the minimum initial temperature specified in the scheduled process.

(d) Timing devices used in recording thermal process time information shall be accurate to the extent needed to ensure that the processing time specified in the scheduled process is achieved. Pocket or wrist watches shall not be considered satisfactory for timing purposes.

(e) For continuous agitating retorts, the condensate bleeder shall be checked with sufficient frequency to ensure adequate removal of condensate. A record shall be kept to show how it is functioning.

§ 128b.6 Equipment and procedures.

(a) *Equipment and procedures for pressure processing in steam in still retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer with a temperature range of not more than 100° F. in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to insure their accuracy. Bulbs of indicating thermometers shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a ¾-inch diameter opening, and shall be equipped with a one-sixteenth inch or larger bleeder opening so located as to provide a full flow of steam past the length of the thermometer bulb. The bleeder for external wells shall emit steam continuously during the entire processing period. Thermometers shall be installed where they can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F. from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each still retort adjusted to agree within 1° F. of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F. within a range of 10° F. of the processing temperature. Each chart shall have a working scale of not more than 50° F. per inch within a range of 20° F. of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the retort shell or in a well attached to the shell. Each temperature recorder bulb well shall have a one-sixteenth inch or larger bleeder opening emitting steam continuously during the processing period.

(3) *Pressure gages.* Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 pounds or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(4) *Steam controller.* Each retort shall be equipped with a steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Steam inlet.* The steam inlet to each still retort shall be large enough

to provide sufficient steam for proper operation of the retort. Steam may enter either the top portion or the bottom portion of the retort but, in any case, shall enter the portion of the retort opposite the vent; for example, steam inlet in bottom portion and vent in top portion.

(6) *Crate supports.* A bottom crate support shall be employed in vertical still retorts. Baffle plates shall not be used in the bottom of still retorts.

(7) *Steam spreaders.* Steam spreaders, which are perforated or other style continuations of the steam line inside the retort, should not be larger than the steam inlet line.

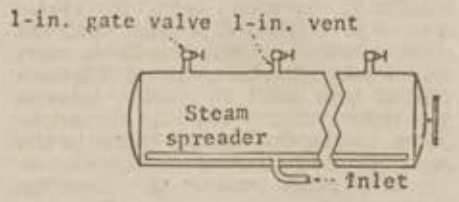
Horizontal still retorts shall be equipped with steam spreaders that extend along the bottom for the length of the retort; the perforations should be along the top 90° of this pipe. Horizontal still retorts over 30 feet long should have two steam inlets connected to the spreader. In vertical still retorts the steam spreaders, if used, should be in the form of a cross with the perforations along the top or sides of the pipe. The number of perforations in spreaders for both horizontal and vertical still retorts should be such that the total cross-sectional area of the perforations is equal to 1½ to 2 times the cross-sectional area of the steam inlet line.

(8) *Bleeders.* Bleeders, except those for thermometer wells, shall be one-eighth inch or larger and shall be wide open during the entire process, including the coming-up-time. For horizontal retorts, bleeders shall be located within approximately 1 foot of each end; additional bleeders shall be located not more than 8 feet apart along the top. Vertical retorts shall have at least one bleeder opening located in that portion of the retort opposite the steam inlet. In retorts having top steam inlet and bottom venting, a bleeder shall be installed in the bottom of the retort to insure removal of condensate. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(9) *Stacking equipment and position of containers.* Crates, trays, gondolas, etc., for holding containers shall be made of strap iron, adequately perforated sheet metal, or other suitable material. When perforated sheet metal is made of scrap iron, adequately perfoshould be approximately the equivalent of 1-inch holes on 2-inch centers. If dividers are used between the layers of containers, they should be perforated as above. When there is stratification of the product in the containers, the containers should be processed in such a position that the plane of stratification is vertical.

(10) *Vents.* Vents shall be installed in such a way that air is removed from the retort before timing of the process is started. Vents shall be controlled by gate, plug cock, or other adequate type valves which shall be fully open to permit rapid discharge of air from the retort during the venting period. Vents shall not be connected directly to a closed drain system. If the overflow is used as a vent, there shall be an atmospheric break in the line before it connects to a closed drain. The vent shall be located in that portion of the retort opposite the steam inlet; for example, steam inlet in bottom portion and vent in top portion. Where a retort manifold connects several vent pipes from a single still retort, it shall be controlled by a gate, plug cock, or other adequate type valve. The retort manifold shall be of a size such that the cross-sectional area of the pipe is larger than the total cross-sectional area of all connecting vents. The discharge shall not be directly connected to a closed drain without an atmospheric break in the line. A manifold header connecting vents or manifolds from several still retorts shall lead to the atmosphere. The manifold header shall not be controlled by a valve and shall be of a size such that the cross-sectional area is at least equal to the total cross-sectional area of all connecting retort manifold pipes from all retorts venting simultaneously. Timing of the process shall not begin until the retort has been properly vented and the processing temperature has been reached. Retorts using air for pressure cooling shall be equipped with a ball or globe valve or suitable valve and piping arrangement on the air line to prevent air leakage into the retort during processing. Some typical installations and operating procedures reflecting the requirements of this section for venting still retorts are given in paragraphs (a)(10)(i) (*a*) through (*d*) and (ii) (*a*) and (*b*) of this section. Other installations and operating procedures which deviate from the above specifications may be used, provided that there is evidence that they accomplish adequate venting of air.

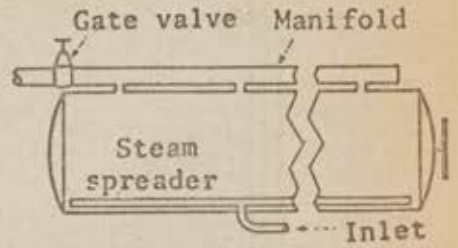
(i) *Venting horizontal retorts.* (*a*) Venting through multiple 1-inch vents discharging directly to atmosphere.



Specifications. One 1-inch vent for every 5 feet of retort length, equipped with a gate or plug cock valve and discharging to atmosphere; end vents not more than 2½ feet from ends of retort.

Venting method. Vent valves should be wide open for at least 5 minutes and to at least 225° F., or at least 7 minutes and to at least 220° F.

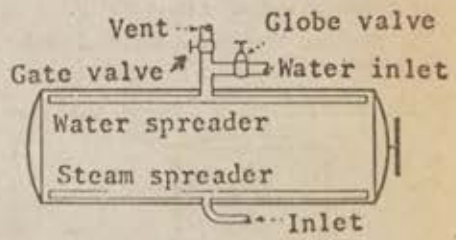
(*b*) Venting through multiple 1-inch vents discharging through a manifold to atmosphere.



Specifications. One 1-inch vent for every 5 feet of retort length; end vents not over 2½ feet from ends of retort; size of manifold—for retorts less than 15 feet in length, 2½ inches; for retorts 15 feet and over in length, 3 inches.

Venting method. Manifold vent gate or plug cock valve should be wide open for at least 6 minutes and to at least 225° F., or for at least 8 minutes and to at least 220° F.

(*c*) Venting through water spreaders.

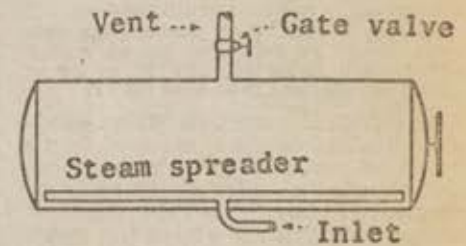


Size of water inlet, vent pipe, and vent valve. For retorts less than 15 feet in length, 2 inches; for retorts 15 feet and over in length, 2½ inches.

Size of water spreader. For retorts less than 15 feet in length, 1½ inches; for retorts 15 feet and over in length, 2 inches.

Venting method. Water spreader vent gate or plug cock valve should be wide open for at least 5 minutes and to at least 225° F., or for at least 7 minutes and to at least 220° F.

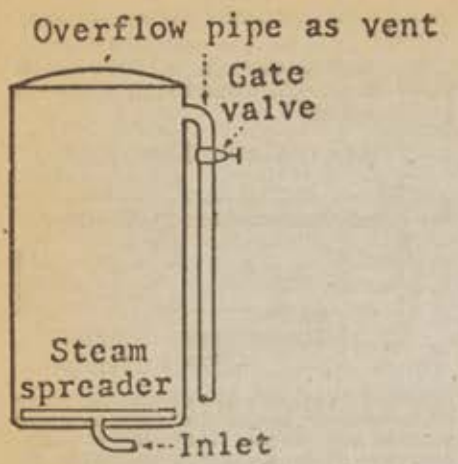
(*d*) Venting through a single 2½-inch top vent (for retorts not exceeding 15 feet in length).



Specifications: A 2½-inch vent equipped with a 2½-inch gate or plug cock valve and located within 2 feet of the center of the retort.

Venting method: Vent gate or plug cock valve should be wide open for at least 4 minutes and to at least 220° F.

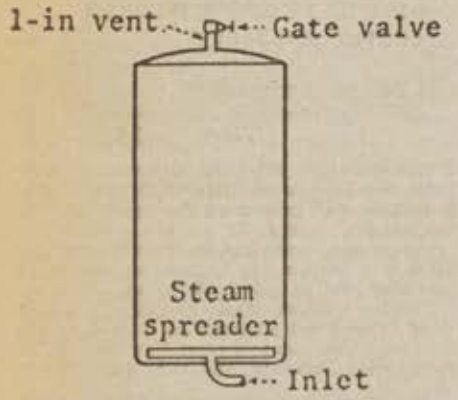
(ii) *Venting vertical retorts.* (*a*) Venting through a 1½-inch overflow.



Specifications. A 1½-inch overflow pipe equipped with a 1½-inch gate or plug cock valve and with not more than 6 feet of 1½-inch pipe beyond the valve before break to the atmosphere or to a manifold header.

Venting method. Vent gate or plug cock valve should be wide open for at least 4 minutes and to at least 218° F., or for at least 5 minutes and to at least 215° F.

(*b*) Venting through a single 1-inch side or top vent.



Specifications. A 1-inch vent in lid or top side, equipped with a 1-inch gate or plug cock valve and discharging directly into the atmosphere or to a manifold header.

Venting method. Vent gate or plug cock valve should be wide open for at least 5 minutes and to at least 230° F., or for at least 7 minutes and to at least 220° F.

(11) *Critical factors.* (i) Where maximum drained weight is specified in the scheduled process it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Closing machine vacuum (in vacuum-packed products) shall be observed and recorded at intervals of sufficient frequency to insure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(b) *Equipment and procedures for pressure processing in water in still retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F. in the processing range on a scale at least 7 inches in length or a temperature range of not more than 150° F. on a scale at least 9 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure their accuracy. Bulbs of indicating thermometers shall be located in such a position that they are beneath the surface of the water throughout the process. On horizontal retorts this entry should be made in the side at the center, and the thermometer bulbs shall be inserted directly into the retort shell. In both vertical and horizontal retorts, the thermometer bulbs shall extend directly into the water a minimum of at least 2 inches without a separable well or sleeve. Thermometers shall be installed where they can be accurately and easily read. A thermometer that has a divided mercury column or that deviate more than 1° F. from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each still retort adjusted to agree within 1° F. of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F. within a range of 10° F. of the processing temperature. Each chart shall have a working scale of not more than 50° F. per inch within a range of 20° F. of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The recording thermometer bulb should be located adjacent to the bulb of the mercury-in-glass thermometer except in the case of a vertical retort equipped with a combination recorder-controller. In such vertical retorts the temperature recorder-control bulb shall be located at the bottom of the retort below the lowest crate rest in such a position that the steam does not strike it directly. In horizontal retorts the temperature recorder-control bulb shall be located between the water surface and the horizontal plane passing through the center of the retort so that there is no opportunity for direct steam impingement upon the control bulb.

(3) *Pressure gages.* (i) Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 lbs. or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(ii) An adjustable pressure relief, or control valve of a capacity sufficient to prevent undesired increase in retort pressure when the water valve is wide open and should be installed in the overflow line.

(4) *Steam introduction.* The distribution of steam in the bottom of the retort shall be accomplished in a manner adequate to provide uniform heat distribution throughout the retort. In vertical retorts, uniform steam distribution can be achieved by any of several methods. In horizontal retorts, the steam distributor shall run the length of the bottom of the retort with perforations distributed uniformly along the upper part of the pipe.

(5) *Crate supports.* A bottom crate support shall be employed in vertical still retorts. Baffle plates shall not be used in the bottom of the retort. Centering guides should be installed so as to insure that there be about 1½-inches clearance between the side wall of the crate and the retort wall.

(6) *Stacking equipment.* Crates, trays, gondolas, etc., for holding containers shall be made of strap iron, adequately perforated sheet metal, or other suitable material. When perforated sheet metal is used for the bottoms, the perforations should be approximately the equivalent of 1-inch holes on 2-inch centers. If divider plates are used between the layers of containers, they should be perforated as above.

(7) *Drain valve.* A nonclogging, watertight valve shall be used. Screens should be installed over all drain openings.

(8) *Water level indicator.* There shall be a means of determining the water level in the retort during operation (e.g., by using a gage water glass or petcock(s)). Water shall cover the top layer of containers during the entire coming-up-time and processing periods and should cover the top layer of containers during the cooling periods.

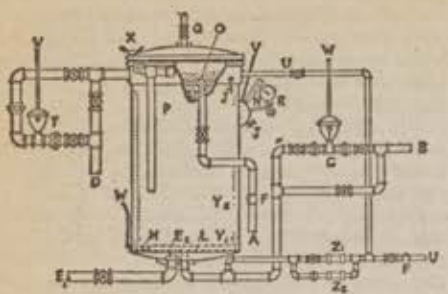
(9) *Air supply and controls.* In both horizontal and vertical still retorts for pressure processing in water, a means shall be provided for introducing compressed air at the proper pressure and rate. The proper pressure shall be controlled by an automatic pressure control unit. A check valve shall be provided in the air supply line to prevent water from entering the system. Air or water circulation shall be maintained continuously during the coming-up-time, processing, and cooling periods; if air is used to promote circulation it shall be introduced into the steam line at a point between the retort and the steam control valve at the bottom of the retort.

(10) *Cooling water supply.* In vertical retorts the cooling water should be introduced at the top of the retort between the water and container levels; in horizontal retorts the cooling water should be introduced into the suction side of the pump. A check valve should be included in the cooling water line.

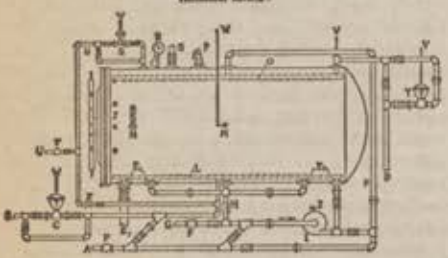
(11) *Retort headspace.* The headspace necessary to control the air pressure should be maintained between the water level and the top of the retort shell.

(12) *Vertical and horizontal still retorts.* Vertical and horizontal still retorts should follow the arrangements in the following diagrams or be equivalent.

Vertical Retorts



Horizontal Retorts



LEGEND FOR VERTICAL AND HORIZONTAL STILL RETORTS

A—Water line.
B—Steam line.
C—Temperature control.
D—Overflow line.
E_1—Drain line.
E_2—Screens.
F—Check valves.
G—Line from hot water storage.
H—Suction line and manifold.
I—Circulating pump.
J—Petcocks.
K—Recirculating line.
L—Steam distributor.
M—Temperature controller bulb.
N—Thermometer.
O—Water spreader.
P—Safety valve.
Q—Vent valve for steam processing.
R—Pressure gage.
S—Inlet air control.
T—Pressure control.
U—Air line.
V—To pressure control instrument.
W—To temperature control instrument.
X—Wing nuts.
Y_1—Crate support.
Y_2—Crate guides.
Z—Constant flow orifice valve.
Z_1—Constant flow orifice valve used during come-up.
Z_2—Constant flow orifice valve used during cook.

(13) *Water circulation.* When a water circulating system is used for heat distribution it shall be installed in such a manner that water will be drawn from the bottom of the retort through a suction manifold and discharged through a spreader which extends the length of the top of the retort. The holes in the water spreader shall be uniformly distributed and should have an aggregate area not greater than the cross section area of the outlet line from the pump. The suction outlets should be protected with nonclogging screens to keep debris from entering the circulating system. The pump shall be equipped with a pilot light or other signaling device to warn the operator when it is not running, and with a bleeder to remove air when starting operations.

(14) *Critical factors.* (i) Where maximum drained weight is specified in the scheduled process it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Closing machine vacuum (in vacuum-packed products) shall be observed and recorded at intervals of sufficient frequency to insure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(c) *Equipment and procedures for pressure processing in steam in continuous agitating retorts.*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F. in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to insure their accuracy. Bulbs of indicating thermometers shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a ¾-inch diameter opening, and shall be equipped with a 1/16-inch or larger bleeder opening so located as to provide a full flow of steam past the length of the thermometer bulb. The bleeders for external wells shall emit steam continuously during the entire processing period. Thermometers shall be installed where they can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F. from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each retort adjusted to agree within 1° F. of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F. within a range of 10° F. of the processing temperature. Each chart shall have a working scale of not more than 50° F. per inch within a range of 20° F. of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the retort shell or in a well attached to the shell. Each temperature recorder bulb well shall have a 1/16-inch or larger bleeder opening emitting steam continuously during the processing period.

(3) *Pressure gages.* Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 pounds or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Bleeders.* Bleeders, except those for thermometer wells, shall be ⅛-inch or larger and shall be wide open during the entire process, including the coming-up time. Bleeders shall be located within approximately 1 foot of each end; additional bleeders shall be located not more than 8 feet apart along the top of the retort. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(6) *Venting and condensate removal.* Vents shall be located in that portion of the retort opposite the steam inlet. Air shall be removed before processing is started. At the time steam is turned on, the drain should be opened for a time sufficient to remove steam condensate from the retort and provision shall be made for continuing drainage of condensate during the retort operation. The condensate bleeder in the bottom of the shell serves as an indicator of continuous condensate removal.

(7) *Retort speed timing.* The rotational speed of the retort shall be specified in the scheduled process. The speed shall be adjusted and recorded when the retort is started, at any time a speed change is made, and at intervals of sufficient frequency to insure that the retort speed is maintained as specified in the scheduled process. These adjustments and recordings should be made every 4 hours or less. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes on retorts shall be provided.

(8) *Emergency stops.* If a retort jams or breaks down during processing operations, necessitating cooling the retort for repairs, the retort shall either be operated as a still retort, with all containers being given a full still retort process before the retort is cooled, or the retort shall be cooled promptly and all containers shall be either reprocessed, repacked and reprocessed, or discarded.

(i) Any containers in the retort intake valve of a continuous retort at the time of breakdown shall either be reprocessed, repacked and reprocessed, or discarded.

(ii) Both the time at which the reel stopped and the time the retort was used for a still retort process, if so used, shall be marked on the recording chart and entered on the other production records required in this chapter. If the alternative procedure of prompt cooling is followed, the subsequent handling methods used for the containers in the retort

at the time of stopping and cooling shall be entered on the production records.

(9) *Temperature drop.* If the temperature of the continuous retort drops below the temperature specified in the scheduled process while containers are in the retort, the retort reel shall be stopped promptly. An automatic device should be used to stop the reel when the temperature drops below the specified process temperature. Before the reel is restarted, all containers in the retort shall be given a complete still retort process if the temperature drop was 10° F. or more below the specified temperature. Alternatively, container entry to the retort shall be stopped and the reel shall be restarted to empty the retort. The discharged containers shall be either reprocessed, repacked and reprocessed, or discarded. Both the time at which the reel stopped and the time the retort was used for a still retort process, if so used, shall be marked on the recording chart and entered on the other production records required in this chapter. If the alternative procedure of emptying the retort is followed, the subsequent handling methods used for the containers in the retort at the time of the temperature drop shall be entered on the production records. If the temperature drop was less than 10° F., an authorized emergency still process approved by a qualified person(s) having expert knowledge of thermal processing requirements may be used before restarting the retort reel. Alternatively, container entry to the retort shall be stopped and an authorized emergency agitating process may be used before container entry to the retort is restarted. If any emergency process and procedure is utilized, no containers shall enter the retort during this time and the process and procedures used shall be entered on the production records.

(10) *Critical factors.* The minimum headspace of containers, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to insure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lap seam (vent hole) cans may be measured by net weight determinations. Where the product consistency is specified in the scheduled process, the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to insure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum (in vacuum-packed products), maximum drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products where deviations from such specifications may affect the scheduled process. Measurements of these critical factors shall be made and recorded at intervals of sufficient frequency to insure that they are as specified in the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(d) *Equipment and procedures for pressure processing in steam in discontinuous agitating retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F. in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to insure their accuracy. Bulbs of indicating thermometers shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a ¾-inch diameter opening, and shall be equipped with a 1/16-inch or larger bleeder opening so located as to provide a full flow of steam past the length of the thermometer bulb. The bleeder for external wells shall emit steam continuously during the entire processing period. Thermometers shall be installed where they can be accurately and easily read. A thermometer with a divided mercury column or that deviates more than 1° F. from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each retort adjusted to agree within 1° F. of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F. within a range of 10° F. of the processing temperature. Each chart shall have a working scale of not more than 50° F. per inch within a range of 20° F. of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the retort shell or in a well attached to the shell. Each temperature recorder bulb well shall have a ⅛-inch or larger bleeder opening emitting steam continuously during the processing period.

(3) *Pressure gages.* Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 pounds or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Bleeders.* Bleeders, except those for thermometer wells, shall be ⅛ inch or larger and shall be wide open during the entire process, including the coming-up-time. Bleeders shall be located within approximately 1 foot of each end; additional bleeders shall be located not more than 8 feet apart along the top of the retort. In retorts having top steam inlet and bottom venting, a bleeder shall be installed in the bottom of the retort to ensure removal of condensate. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(6) *Venting and condensate removal.* The air in each retort shall be removed before processing is started. At the time steam is turned on, the drain should be opened for a time sufficient to remove steam condensate from the retort and provision should be made for continuing drainage of condensate during the retort operation.

(7) *Retort speed timing.* The rotational speed of the retort shall be specified in the scheduled process. The rotational speed shall be adjusted, as necessary, to ensure that the speed is as specified in the scheduled process. The rotational speed as well as the process time shall be recorded for each retort load processed. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes on retorts shall be provided.

(8) *Critical factors.* The minimum headspace of containers in each retort load to be processed, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to insure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lap seam (vent hole) cans may be measured by net weight determinations. Where the product consistency is specified in the scheduled process, the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to insure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum (in vacuum-packed products), maximum drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products where deviations from such specifications may affect the scheduled process. Measurements of these critical factors shall be made and recorded at intervals of sufficient frequency to insure that they are as specified in the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(e) *Equipment and procedures for pressure processing in water in discontinuous agitating retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F. in the processing range on a scale at least 7 inches in length. The scale division shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to insure their accuracy. Bulbs of indicating thermometers shall be installed either

within the retort shell or in external wells attached to the retort. Thermometers shall be installed where they can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F. from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each retort adjusted to agree within 1° F. of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F. within a range of 10° F. of the processing temperature. Each chart shall have a working scale of not more than 50° F. per inch within a range of 20° F. of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the retort shell or in a well attached to the shell.

(3) *Pressure gages.* Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 pounds or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Retort speed timing.* The rotational speed of the retort shall be specified in the scheduled process. The rotational speed shall be adjusted, as necessary, to insure that the speed is as specified in the scheduled process. The rotational speed as well as the process time shall be recorded for each retort load processed. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes shall be provided.

(6) *Air supply and controls.* Means shall be provided for introducing compressed air at the proper pressure and rate. The proper pressure shall be controlled by an automatic pressure control unit. A check valve shall be provided in the air supply line to prevent water from entering the system.

(7) *Critical factors.* The minimum headspace of containers in each retort load to be processed, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to insure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lap seam (vent hole) cans may be measured by net weight determinations. Where the product consistency is specified in the scheduled process the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to insure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum (in vacuum-packed products), maximum drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products where deviations from such specifications may affect the scheduled process. Measurements of these critical factors shall be made and recorded at intervals of sufficient frequency to insure that they are as specified in the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(f) *Equipment and procedures for pressure processing in steam in hydrostatic retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F. in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to insure their accuracy. The thermometer shall be located in the steam dome near the steam-water interface. Where the scheduled process specifies maintenance of particular temperatures in the hydrostatic water legs, a mercury-in-glass thermometer shall be located in each hydrostatic water leg in a position near the bottom automatic recorder so that it can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F. from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each retort adjusted to agree within 1° F. of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F. within a range of 10° F. of the processing temperature. Each chart shall have a working scale of not more than 50° F. per in. within a range of 20° F. of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the steam dome or in a well attached to the dome. Temperature recorder bulb wells shall have a $\frac{1}{16}$-inch or larger bleeder opening emitting steam continuously during the entire processing period. Additional temperature recorder bulbs shall be installed in the hydrostatic water legs if the scheduled process specifies maintenance of particular temperatures in the hydrostatic water legs.

(3) *Recording of temperatures.* Temperatures indicated by the mercury-in-glass thermometer or thermometers shall be entered on a suitable form during processing operations. Temperatures shall be recorded by an accurate automatic recorder or recorders at the following points:

(i) In the steam chamber between the steam-water interface and the lowest container position.

(ii) Near the top and the bottom of each hydrostatic water leg if the scheduled process specifies maintenance of particular temperatures in the legs.

(4) *Venting.* Before the start of processing operations, the retort steam chamber or chambers shall be vented to ensure removal of air.

(5) *Bleeders.* Bleeder openings $\frac{1}{4}$-inch or larger shall be located at the end of the steam chamber or chambers opposite from the point of steam entry. Bleeders shall be wide open and shall emit steam continuously during the entire process, including the coming-up-time. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(6) *Retort speed.* The speed of the container conveyor chain shall be specified in the scheduled process and shall be determined and recorded at the start of processing and at intervals of sufficient frequency to insure that the retort speed is maintained as specified. The speed should be determined and recorded every 4 hours. An automatic device should be used to stop the chain when the temperature drops below that specified in the scheduled process. A means of preventing unauthorized speed changes shall be provided.

(7) *Critical factors.* (i) Where maximum drained weight is specified in the scheduled process, it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Minimum closing machine vacuum (in vacuum-packed products) shall be observed and recorded at intervals of sufficient frequency to ensure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(g) *Aseptic processing and packaging systems*—(1) *Product sterilizer*—(i) *Equipment*—(a) *Temperature indicating device.* Each product sterilizer shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F. in the processing range on a scale at least 7 inches in length, or an equivalent temperature indicating device, such as a thermocouple-recorder. The scale divisions or chart graduations of the temperature indicating device shall be no more than 2° F. within the range of 10° F. of the product sterilization operating range. The device shall be installed in the product at the holding tube outlet between the holding tube and the inlet

to the cooler. The temperature indicating device shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure its accuracy. The device shall be installed so that it can be accurately and easily read. A thermometer that has a divided mercury column or a device that deviates more than 1° F. from the standard shall be repaired or replaced. The temperature indicating device shall be the reference instrument for indicating the processing temperature.

(b) *Temperature recording device.* There shall be an accurate temperature recording device on each product presterilizer. The temperature sensor shall be located in the presterilized product at the holding tube outlet between the holding tube and the inlet of the cooler. The recording device shall be adjusted to agree with a known accurate standard mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The recording device shall not deviate more than 1° F. from the standard thermometer; it shall be installed so that it can be accurately and easily read. The recording chart graduations shall not exceed 2° F. within a range of 10° F. of the desired product sterilization temperature. The chart shall have a working scale of not more than 50° F. per inch within a range of 20° F. of the processing temperature.

(c) *Temperature recorder-controller.* An accurate temperature recorder-controller shall be located in the product sterilizer at the final heater outlet. It shall be capable of assuring that the desired product sterilization temperature is maintained. The chart graduations shall not exceed 2° F. within a range of 10° F. of the desired product sterilization temperature.

(d) *Product-to-product regenerators.* Where a product-to-product regenerator is used to heat the cold unsterilized product entering the sterilizer by means of a heat exchange system, it shall be designed, operated, and controlled so that the pressure of the sterilized product in the regenerator is greater than the pressure of any unsterilized product in the regenerator to insure that any leakage in the regenerator will be from the sterilized product into the unsterilized product.

(e) *Differential pressure recorder-controller.* Where a product-to-product regenerator is used, there shall be an accurate differential pressure recorder-controller installed on the regenerator. The scale divisions shall not exceed 2 pounds per square inch on a working scale of not more than 20 pounds per square inch per inch. The controller shall be tested for accuracy against a known accurate standard pressure indicator, upon installation and at least once every 3 months of operation thereafter or more frequently as may be necessary to ensure its accuracy. One pressure sensor shall be installed at the sterilized product regenerator outlet, and the other pressure sensor shall be installed at the unsterilized product regenerator inlet.

(f) *Metering pump.* A metering pump shall be located upstream from the holding tube and shall be operated to maintain the required rate of product flow. A means of preventing unauthorized speed changes shall be provided.

(g) *Product holding tube.* The product sterilizing holding tube shall be designed to give continuous holding of every particle of food for at least the minimum holding time specified in the scheduled process. The holding tube shall be designed so that no portion between the product inlet and the product outlet can be heated, and it shall be sloped upward at least 0.25 inch per foot.

(ii) *Operation—(a) Startup.* Prior to the start of aseptic processing operations, the product sterilizer shall be brought to a condition of commercial sterility.

(b) *Temperature drop in product sterilizing holding tube.* When product temperature in the holding tube drops below the temperature specified in the scheduled process, the product holding tube and any further system portions affected shall be returned to a condition of commercial sterility before flow is resumed to the filler.

(c) *Loss of proper pressures in the regenerator.* Where a regenerator is used the product may lose sterility whenever the pressure of sterilized product in the regenerator is less than 1 lb. per square in. greater than the pressure of unsterilized product in the regenerator. Product flow to the filler shall not be resumed until the cause of the improper pressure relationships in the regenerator has been corrected and the affected system(s) has been returned to a condition of commercial sterility.

(d) *Records.* Readings at the following points shall be observed and recorded at the start of aseptic packaging operations and at intervals of sufficient frequency to ensure that these values are as specified in the scheduled process: Temperature indicating device in holding tube outlet; temperature recorder in holding tube outlet; temperature recorder-controller at final heater outlet; differential pressure recorder-controller, if a product-to-product regenerator is used; and product flow rate as established by the metering pump or as determined by filling and closing rates. Such measurements and recordings should be made at intervals not to exceed 1 hr.

(2) *Container sterilizing, filling, and closing operation*—(i) *Equipment—(a) Recording device.* The container and closure sterilization system and product filling and closing system shall be instrumented to show that commercial sterility is being achieved. Automatic recording devices shall be used to record, where applicable, the sterilization media flow rates and/or temperatures. Where a batch system is used for container sterilization, the sterilization conditions shall be recorded.

(b) *Timing method(s).* A method(s) shall be used either to give the retention time of containers, and closures if applicable, in the sterilizing environment as specified in the scheduled process, or to control the sterilization cycle at the rate as specified in the scheduled process. A means of preventing unauthorized speed changes shall be provided.

(ii) *Operation—(a) Startup.* Prior to the start of packaging operations, both the container and closure sterilizing system and the product filling and closing system shall be brought to a condition of commercial sterility.

(b) *Loss of sterility.* In the event of loss of sterility, the system(s) shall be returned to a condition of commercial sterility before resuming packaging operations.

(c) *Records.* Observations and measurements of operating conditions shall be made and recorded at intervals of sufficient frequency to ensure that commercial sterility of the food product is being achieved; such measurements shall include the sterilization media flow rates and/or temperatures, the container and closure rates (if applicable) through the sterilizing system, and the sterilization conditions if a batch system is used for container sterilization. The measurements and recordings should be made at intervals not to exceed 1 hour.

(3) *Incubation.* Incubation tests shall be conducted on a representative sample of containers of product from each code; records of the tests shall be maintained.

(h) *Equipment and procedures for flame sterilizers.* The container conveyor speed shall be specified in the scheduled process. The container conveyor speed shall be measured and recorded at the start of operations and at intervals of sufficient frequency to ensure that the conveyor speed is as specified in the scheduled process. Such measurements and recordings should be done at 1-hour intervals. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes on the conveyor shall be provided. The surface temperature of at least one container from each conveyor channel shall be measured and recorded at the end of the holding period at intervals of sufficient frequency to ensure that the temperatures specified in the scheduled process are maintained. Such measurements and recordings should be done at intervals not to exceed 15 minutes.

(i) *New systems.* The development of new systems for the thermal processing of low-acid foods in hermetically sealed containers shall conform to the applicable requirements of this part and shall ensure that the methods and controls used for the manufacture, processing, and/or packing of such foods are operated or administered in a manner adequate to achieve commercial sterility.

§ 128b.7 Containers.

(a) *Closures.* Regular observations shall be maintained during production runs for gross closure defects. Any such defects shall be recorded, and corrective action shall be taken and recorded. At intervals of sufficient frequency to ensure proper closure, the operator, closure su-

pervisor, or other qualified container closure inspection person shall visually examine either the top seam of a can randomly selected from each seaming head or the closure of any other type of container being used, and shall record his observations. Such measurements and recordings should be made at intervals not to exceed 30 minutes. Additional visual closure inspections shall be made immediately following a jam in a closure machine, after closing machine adjustment, or after startup of a machine following a prolonged shutdown. All pertinent observations shall be recorded. Where irregularities are found, the corrective action shall be recorded.

(1) Teardown examinations for double seam cans shall be performed by a qualified individual and the results therefrom shall be recorded at intervals of sufficient frequency on enough containers from each seaming station to ensure maintenance of seam integrity. Such examinations and recordings should be made at intervals not to exceed 4 hours. The results of the teardown examinations shall be recorded and the corrective action taken, if any, shall be noted.

(i) Required and optional can seam measurements:

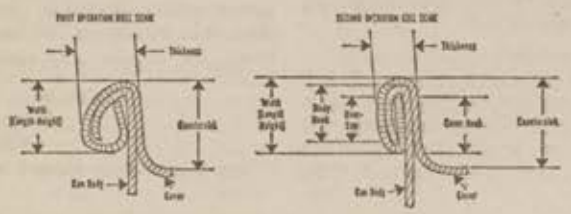
(*a*) Micrometer measurement system:

Required	*Optional*
Cover hook.	Overlap (by calculation).
Body hook.	Countersink.
Width (length, height).	Thickness.
Tightness (observation for wrinkle).	

(*b*) Seam scope or projector:

Required	*Optional*
Body hook.	Width (length, height).
Overlap.	Cover hook.
Tightness (observation for wrinkle).	Countersink.
	Thickness.

(*c*) Can double seam terminology:



(ii) Two measurements at different locations, excluding the side seam, shall be made for each double seam characteristic if a seam scope or seam projector is used. When a micrometer is used, three measurements shall be made at points approximately 120° apart, excluding the side seam.

(iii) Overlap length can be calculated by the following formula:

The theoretical overlap length=
CH+BH+T−W where
CH=cover hook
BH=body hook
T=cover thickness, and
W=seam width (height, length)

(2) For closures other than double seams, appropriate detailed inspections and tests shall be conducted by qualified personnel at intervals of sufficient frequency to insure proper closing machine performance and consistently reliable hermetic seal production. Records of such tests shall be maintained.

(b) *Cooling.* Container cooling water should be chlorinated as necessary by the processor so that there is a measurable free chlorine residual at the water discharge point of the container cooler. Other safe chemical or physical treatment which is equivalent to chlorination in its bactericidal effect may be used. Where pressure cooling is utilized, adequate pressure should be maintained for a time sufficient to prevent permanent distortion of the container.

(c) *Coding.* Each hermetically sealed container of low-acid processed food shall be marked with an identifying code which shall be permanently visible to the naked eye. Where the container does not permit the code to be embossed or inked, the label may be legibly perforated or otherwise marked, provided that the label is securely affixed to the product container. The required identification shall identify in code the establishment where packed, the product contained therein, the year packed, the day packed, and the period during which packed. The packing period code shall be changed with sufficient frequency to enable ready identification of lots during their sale and distribution. Codes may be changed on the basis of one of the following: Intervals of every 4 to 5 hours; personnel shift changes; or batches, provided the containers comprising such batch do not extend over a period of more than one personnel shift.

(d) *Postprocess handling:* Where cans are handled on belt conveyors, such conveyors should be so constructed as to minimize contact by the belt with the double seam, i.e., cans should not be rolled on the double seam. All worn and frayed belting, can retarders, cushions, etc. should be replaced with new nonporous material. All tracks and belts which come into contact with the can seams should be thoroughly scrubbed and sanitized at intervals of sufficient frequency to avoid product contamination. Automatic equipment used in handling filled containers should be so designed and operated in such a manner as to preserve the can seam or other container closure integrity.

§ 128b.8 Processing and production records.

(a) Processing and production information shall be entered by the retort or processing system operator, or other designated person, on forms which shall include the product, the code number, the retort or processing system number, the size of container, the approximate number of containers per coding interval, the minimum initial temperature, the actual processing time and temperature, the mercury-in-glass and recording thermometer readings, and other appropriate processing data. Closing machine vacuum (in vacuum-packed products), maximum drained weight, or other critical factors specified in the scheduled process shall also be recorded. In addition, the following records shall be maintained:

(1) *Still retorts.* Time steam on; time temperature up to processing temperature; time steam off; venting time and/or temperature to which vented (as applicable).

(2) *Agitating retorts.* Functioning of condensate bleeder; retort speed; and, where specified in the scheduled process, headspace, consistency, maximum drained weight, minimum net weight, and percent solids.

(3) *Hydrostatic retorts.* The temperature in the steam chamber between the steam-water interface and the lowest container position; speed of the container conveyor chain; and, where the scheduled process specifies maintenance of particular temperatures in the hydrostatic water legs, the temperatures near the top and the bottom of each hydrostatic water leg.

(4) *Aseptic processing and packaging systems.* Product temperature in the holding tube outlet as indicated by the temperature indicating device and the temperature recorder; product temperature in the final heater outlet as indicated by the temperature recorder-controller; differential pressure as indicated by the differential pressure recorder-controller, if a product-to-product regenerator is used; product flow rate, as determined by the metering pump or by filling and closing rates; sterilization media flow rate and/or temperature; retention time of containers, and closures where applicable, in the sterilizing environment; and, where a batch system is used for container and/or closure sterilization, sterilization cycle times and temperatures.

(5) *Flame sterilizers.* Container conveyor speed; surface temperature at the end of the holding period; nature of container.

(b) Recording thermometer charts shall be identified by date, and other data as necessary, so they can be correlated with the written record of lots processed. Each entry on the record shall be made by the retort or processing system operator, or other designated person, at the time the specific retort or processing system condition or operation occurs, and the retort or processing system operator or such designated person shall sign or initial each record form. Not later than 1 working day after the actual process, and prior to shipment or release for distribution, a representative of plant management who is qualified by suitable training or experience shall review all processing and produc-

tion records for completeness and to insure that the product received the scheduled process. The records, including the recording thermometer chart(s), shall be signed or initialed by the person conducting the review.

(c) Written records of all container closure examinations shall specify the product code, the date and time of container closure inspections, the measurements obtained, and all corrective actions taken. Records shall be signed or initialed by the container closure inspector and shall be reviewed by management with sufficient frequency to assure that the containers are hermetically sealed.

(d) Copies of all records provided for in this part except those required under § 128b.4 establishing scheduled processes, shall be maintained at the processing plant for a period of not less than 3 years.

§ 128b.9 Deviations in processing.

Whenever any process is less than the scheduled process for any low-acid food or container system as disclosed from records, by processor check, or otherwise, the commercial processor of such low-acid food shall either fully reprocess that portion of the production involved, keeping full records of the reprocessing conditions or, alternatively, shall set aside that portion of the production involved for further evaluation as to any potential public health significance. Such evaluation shall be made by a competent processing authority and shall be in accordance with procedures recognized by competent processing authorities as being adequate to detect any potential hazard to public health. Unless such evaluation demonstrates that the product had been given a thermal process that rendered it free of micro-organisms of potential public health significance, the product set aside either shall be fully reprocessed to render it commercially sterile or it shall be destroyed. A record shall be made of the evaluation procedures used and the results. Either upon completion of full reprocessing and the attainment of commercial sterility or after the determination that no significant potential for public health hazard exists, that portion of the production involved may be shipped in normal distribution. Otherwise, the portion of the production involved shall be destroyed.

§ 128b.10 Personnel.

All operators of retorts, processing systems, and aseptic processing and packaging systems, and container closure inspectors shall be under the operating supervision of a person who has attended a school approved by the Commissioner for giving instruction in retort operations, processing systems operations, aseptic processing and packaging systems operations, and container closure inspections, and has been identified by that school as having satisfactorily completed the prescribed course of instruction.

Effective date. This order shall become effective March 26, 1973, except as to those provisions of § 128b.6 regarding the installation of recording thermometers on thermal processing equipment and the provisions of § 128b.10, which concerns the training of personnel. Those provisions of § 128b.6 regarding the installation of recording thermometers on thermal processing equipment shall become effective June 25, 1973. The provisions of § 128b.10, which concerns the training of personnel, shall become effective September 25, 1974.

(Secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055, 21 U.S.C. 342(a)(4), 371(a))

Dated: January 12, 1973.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.73-1167 Filed 1-23-73;11:51 am]

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